

University of Madras

SOME ASPECTS OF

ANCIENT INDIAN POLITY

BY SUBRAHMANYA AIYAR LECTURE, 1914





CONSIDERATIONS ON  
SOME ASPECTS OF  
ANCIENT INDIAN POLITY

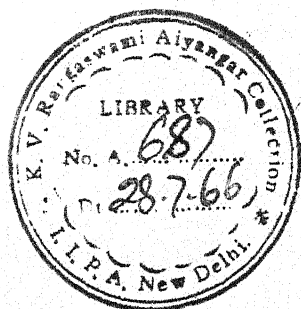
Sir SUBRAHMANYA AIYAR LECTURE, 1914

CONFUTATED  
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TO THE FOUNDER

## ERRATA

Page 27, line 24, for *inviduously* read *invidiously*.

Page 35, line 9, for *adventious* read *adventitious*.

Page 41, line 18, for *tend* read *trend*.

Page 49, line 13, for *Vasishta* read *Vasishtha*.

Page 85, line 25, for *Borradaile* read *Borrodaile*.

Page 93, line 28, for शास्त्रं read शास्त्र

Page 94, line 11, for अगम्यं read अगम्य

Page 95, line 17, for *Vasishta* read *Vasishtha*.

Page 96, line 8, for *Ssupalavadha* read *Sisupalavadha*.

Page 107, line 13, for खस्त्रीयं read खस्त्रीय

Page 112, line 20, for (*vyakar na*) read (*vyakarana*).

Page 116, line 1, for जीवकादीन् read जीवकादीन्

Page 128, line 17, close the space between विरोधि and

कोटिन्यव

Page 136, last line, for उचितस्स्यात्तेनैव read उचित स्तस्य  
तेनैव

Page 137, line 21, for *Cornwall Lewis* read *Cornewall  
Lewis*.

## NOTE

THE accompanying lectures were delivered a little over two years ago. The delay in the publication which has occurred has, however, been turned to some advantage, since it has made it possible to correct and to supplement the explanations and the references with which it was originally found necessary to follow up the more formal observations in the body of the lectures, and to bring them together separately as Notes in an Appendix.

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## I

THIS is not the first occasion on which it has been given to me to speak in this hall of many and hallowed memories, dear to me for over twenty years, since I entered it as a student in search of admission to a University course. It is, however, the first time when I have the pleasure of doing so in the character of the first lecturer of the University on a foundation which owes its being to the enlightened munificence and burning zeal for the advancement of Indian history, science and culture, which characterized the eminent Indian, now no more, whose glorious career, so full of dazzling promise and of brilliant and many-sided achievement, was over even before the first of what he would assuredly have deemed his series of further benefactions to his University had time to materialize and to take shape. The lectureship founded by the late Mr. V. Krishnaswami Aiyar, has been further honoured by being named after one of the most widely revered Indians of the past half-century, the Nestor of our graduates, happily still spared to us, in honouring whom, every one, from the highest in the land, may feel that he is only honouring himself.

Those alone who can do so from such personal knowledge as has not been mine, can speak of the rare traits, accomplishments and achievements which have won, for these two, such extraordinary and universal appreciation in the country. I have ventured, in all humility, to recall their connection with the lectureship to which it has been my good fortune to be appointed, to show that though, in a sense, perhaps, an initial lecturer

on the foundation may luckily be exempt from the otherwise inevitable comparison with distinguished predecessors, yet he must feel overwhelmed by the high ideals of scholarship and culture, conjured up by the thought of the eminent men with whose name the lectureship is associated. The feeling that I am the first speaker under this endowment gives me also an increased sense of responsibility, since there is no one in whose step I may claim to tread, or whose record I can attempt to reach.

This is my excuse for not attempting a *survey* of the vast field of the literature and subject-matter of Ancient Indian Polity, the subject chosen by me—from amongst the topics which the wide range of Ancient Indian History and Archaeology affords—for its natural attraction, as well as for its fitness to be associated with the names of two such publicists and servants of the state as Sir Subrahmanya Aiyar and Mr. Krishnaswami Aiyar. My remarks will, accordingly be restricted, to certain topics and *aspects* of my wide theme, which as a student and as a teacher, I have felt the need for stressing at the present day. I would be content to leave it to other and better equipped students of Indian history to earn the recognition that would come of treating in its entirety, with becoming thoroughness and skill, a subject of such range and difficulty.

The consideration of the present condition and prospects of my subject has recalled to my mind certain suggestive passages, written in 1888, in which one of the foremost institutional historians, described the position and possibilities of the historical study of English law. It has brought into relief the resemblance and the difference between the conditions described by him, and those which appear to me to govern the destinies of my subject. In India, to-day, as in England, when Maitland

wrote, the historical conscience is awake to the need for treating institutions equally with men and events. Students of history readily accept, *in the abstract*, such propositions as, that law and politics are important elements of individual and national life, and that their systematic study is the duty of the historian who desires to understand his society aright. But, while in England, this change in the historian's attitude induced the *historical* study of English law, resulting some years later in the production of Maitland's own illustrious work, in India, we are yet far from such an achievement, in that issues are being obscured and findings vitiated by the tendency to treat history as the ally of dogma, and to look into the armoury of our ancient polity for weapons to be used in the arena of modern political controversies. While, as supplying a powerful motive for continuing with enthusiasm those studies, it was a fortunate coincidence that the renaissance of Indian historical studies should have come along with a resurgent national feeling, in another aspect, this conjunction has proved less auspicious. The temptation has often proved irresistible for our students to fix their eyes exclusively on the attractive or inspiring epochs of our past, to write with purpose and with prejudice, and to neglect the study of the *whole* development of the people in the attempt to study only chosen parts of it. The result is that one may not inaptly apply to much of the historical work in India at the present day the amusing complaint made by Macaulay—'amusing because *he* made it':—'In our country' said he, 'the dearest interests of parties have been staked on the researches of antiquaries. The inevitable consequence was that our antiquaries conducted their researches in the spirit of partisans.'

Political bias is not the only impediment to the scientific study of ancient polities. Propositions of a



controvertible kind, which have long exercised a baneful sway over the minds of students of Indian history, partly by the strength of long-standing prescription, and even more on account of the weight of 'high authority' behind them have proved equally obstructive. First among these is the assumption that in India political conditions have *ever* been uniform and homogeneous. Next, comes the old belief in the unchanging character of the East—China and Japan alone *recently* excepted—to which even so subtle a thinker as Mr. Balfour has professed adherence. Then we have the allied opinion that, excepting perhaps for some forms of poetry, almost the only talent of India was for metaphysical speculation, and that the characteristic of India in the realm of practical life has been an invulnerable quietism. This opinion has now risen to the rank of a tenet of historical orthodoxy. Among other impediments of a general nature may be counted: first, the habit of lumping together *all* forms of Government in the East under the head of 'Oriental Despotism'; second, the tendency to deny the conception of progress to the East, and lastly the complacent disposition to regard the existing stock of political knowledge as almost complete and as unlikely to benefit by the study of the political institutions of the early East.

These would seem serious obstacles to the growth of an adequate perception of our ancient polity. There is, however, no need for speaking in a hopeless tone. An impediment that is discovered is half overcome. A critical examination of the assumptions, which have just been alluded to, should give an added impetus to the study. So much has been written on the subject, especially in recent years, and so much has also been done in the way of collecting data, that, in respect of material for study, there is now, to vary Lord Acton's expression, less danger of a drought than of a deluge.

It would be equally ungracious to omit to acknowledge the activity of so many scholars in this direction, and unjust to condemn every contribution that has been made to the subject as crude, or prejudiced. *Ours* is not the only country in which national aspirations and historical work have been so closely associated, or historical themes studied, as the means to specific political ends. The history of historical writing during the last hundred years in Europe and in America should make us anticipate that, as in the West, so in India the further growth of the scientific spirit, and the widening of the area of historical studies and interests will bring, in their train, a state of affairs in which the national feeling will quicken and historical method control the work of research. Further, has not an important point been already gained by the universal admission that the key to the present is to be found as much in the *distant* as in the *immediate* past? Does not such a hypothesis imply the 'transforming conceptions' of the unity of history and the continuity of historical development, in which authorities like Professor Bury have recognized the motive power for the advance which history has made for a hundred years? Let us also not forget the immense progress made in *allied* studies. To the wise liberality of a single nobleman of Bengal we largely owe the rapid advance in recent years of the historical and analytical study of Indian law. Again, by the industry of a host of scholars, the available law books—Sutras, Smritis, Nibandhas and Commentaries—have been edited, analysed, translated and compared, sometimes over and again; so that, where Elphinstone and Mill had to depend exclusively on Manu and Kulluka, for their pictures of ancient Indian society, their successors, to-day can count their *legal* sources alone by the hundred literally. The emulation of Sanskrit and Pali scholars, which, in its

strenuousness, has sometimes threatened to break out into a repetition of the ancient rivalries of the Brahman and the Buddhist, has amassed much precious material for the study of the society of the so-called Vedic, Epic and Buddhist epochs of our history. The tireless salvage operations carried on for over forty years have resulted in the collection of immense and ever-growing piles of lost literature, in which one may still delve and hope to come upon some invaluable treasure. And, the remarkable progress of Indian epigraphy, during the same period, has largely helped to free ancient Indian history from the reproach of being based exclusively on literature.

All this new material—Sanskrit and Pali literature generally and the lawbooks in particular, with the available inscriptions and the accounts, fragmentary or complete, of Greek or Chinese visitors—have placed in the hands of the modern student an abundance of data to be worked up. His good luck has, however, not stopped here. In 1882, a professor in a Madras College gave us the first satisfactory edition of Sukra's *Essence of Polity*. A great Sanskrit scholar of Bengal followed with an edition of the more popular manual of Kaman-daka. A little later, Dr. Oppert again entered the field with an edition of a rare work, the *Nitiprakasika* of Vaisampayana, whom, with some indiscreet zeal he identified with the eponymous sage of the *Mahabharata*. In 1887, a Bombay magazine, the *Grantharatnamala*, began to publish, in serial form, an annotated version of the rare *Nitivakyamrita* (Nectar of Political Maxims), composed in the tenth century A.D., in the Dakhan, by the Jain polyhistor Somadeva, the *asrita* of Yasodhara, a feudatory of Krishna III, the Rashtrakuta conqueror. In the following year, another Bombay publisher printed a digest on polity named the *Vivadarnava Setu* (Bridge over the sea of Litigation). The work, which is not yet as known

as it might well be, is interesting as the publisher wrongly claims it to be the production of a committee of *eleven* scholars, commissioned to prepare a digest of Hindu Civil and Criminal Law for Ranjit Singh of Lahore, while it is really the original of Nathaniel Halhed's forgotten 'Gentoo' Code. Meanwhile, the deserved fame of the Bhatta family of Benares, had led to the lithographing of the part relating to *polity* in the great digest which Bhatta Nilakantha, prepared in the seventeenth century and named after his patron, the Sengara chief, Bhagavanta of Bundelkhand. The most sensational discovery in the newly reclaimed tract of *Nitisastra* came about a decade later and was almost the result of an accident. This was the finding of the *Arthasastra* or *Arthasutra* of Kautilya, a single manuscript of which was acquired, along with a hopelessly incomplete commentary, by the Mysore Oriental Library. About a decade after it was acquired, an edition of it was published by a Sanskrit scholar of our University.<sup>1</sup>

The finding of the *Arthasastra* of Kautilya will remind students of Roman Law of the fortunate accident which made Niebuhr light upon the manuscript of Gaius at Verona, in 1816. The recovery of the Indian work has inaugurated, a new epoch in the study of ancient Indian institutions—political and economic—and the press in India and elsewhere, during the past few years, has shown how largely and enthusiastically the *Arthasastra* is being pressed to yield information on the conditions of the epoch in which it was composed.

Kautilya, or *Chanakya*—to give him the name by which he is better remembered, is well known in Indian tradition or legend. The *Purana* texts of the dynasties of the Kali age, which according to their latest editor,

<sup>1</sup> Mr. Shama Sastri in 1909.

Mr. F. E. Pargiter, attained their present form by A.D. 250, refer to Kautilya's part in the revolution which overturned the Nanda dynasty of Maghadha and placed Chandragupta Maurya on the throne. The last verse in the *Arthasastra*, as it stands at present, would appear to confirm this story. For, it states that the author of the work was the man, who, in his unforgiving anger, took up arms, used his knowledge, and plucked the sovereignty over the earth from the Nanda Rajas. Another passage (page 75) explicitly states that the work was composed by Kautilya for the use of the king of men (Narendra). Kamandaka, who begins his work by confessing himself a follower of Kautilya—a confession which is confirmed by a comparison of the two works showing that Kamandaka merely versified the passages of *Arthasastra*, sometimes without even understanding them or verifying their references—repeats the identical story, and adds the additional statement that through Chanakya's efforts Chandragupta's sovereignty was extended over the whole earth. He also specifically refers to Kautilya as the author of a book on polity. If it is not possible to use effectively the reference in Kamandaka—because dates ranging from the first to the sixth century A.D. have been ascribed to him by different scholars, what shall we say of the specific references to him, and paraphrases of his words which occur in the great romance of Dandin, our inimitable master of rhetoric and realism, and of Bana's denunciation of the immoral influences which were believed to radiate from his teachings? The prologue to the *Panchatantra*—the Indian story book which had sufficient fame outside India to induce *Khusru Anushirvan* (A.D. 531 to 579) to get it translated into Pahlavi, the official language of Persia—mentions Chanakya's work as the type of *Arthasastra*. The work appears to have been known,

and regarded with some awe, in the centuries following, especially after it began to obtain a reputation for containing immoral or improper precepts for action. Visakhadatta, a talented dramatist of the seventh or eighth century, used the story of Chanakya for a popular play. Despite the explicit praise of his ability and the equally explicit condemnation of his 'false teachings' in the Jain Canonical *Nandisutra*, Somadeva, who seems to have been a Jain teacher (C.A.D. 959), based his own work—*Nitivakyamrita*—almost exclusively on the *Arthasastra*, modifying such expressions of opinion as conflicted with the Jain views on ethics and religion. The work seems to have been available to scholars even later. Thus, Mallinatha, the Dakhani commentator of the fourteenth century, quotes the *Arthasastra* in his commentary on the *Raghavamsa* (xvii. 49, 76 ; xviii. 50). Arunachala, an older commentator on Kalidasa—and a South Indian whose work is just being published by the Travancore Darbar—appears to have had the *Arthasastra* before him. And, in the seventeenth century commentary on Arunachala's gloss on the *Kumarasambhava*, Narayana Pandita (probably a Nambudiri) of Calicut quotes Kautilya. We have thus proofs of both the dispersion and of the vitality of the *Arthasastra* ; but what we need is a convincing explanation that would account for its uniform rarity ending in its total disappearance, almost on the threshold of our own times.

The Puranic lists of dynasties, which refer to Chanakya, attained their present form, according to Mr. Pargiter, about A.D. 250. It would thus appear that Chanakya must have lived at some earlier period pretty far removed from the middle of the third century A.D., and that his work should give indications of this fact, if it was *really* composed by him. What evidence of its authenticity do we possess? Have we further any.

evidence tending to establish its priority in date to well-known works on *Dharmasastra* and *Nitisastra*? Is the *Arthasastra*, as we now possess it, homogeneous and the production of a single author? These are the questions that have to be considered before the value of the *Arthasastra* for the study of our ancient institutions can be fully appreciated.

To take the last point first. The question of homogeneity is decided easily in favour of the *Arthasastra*. Every quotation stated to be made from it has been found in it, and every discovered reference to its contents by writers from the sixth to the seventeenth centuries has proved capable of verification. Even unacknowledged borrowings, like those of Somadeva, are easily detected by one familiar with its contents. Its unity of plan and its individuality are evident from its beginning to its end. Its style is uniform. It is true to its own description of size and scope. It contains just the 6,000 slokas or groups of thirty-two syllables, it professes to contain, and which Dandin referred to in the sixth century A. D. as the measure of its size. With characteristic thoroughness and eye to detail the author of the *Arthasastra* has provided against both interpolation and tampering by beginning with a chapter on the contents (*adhikarana samuddesa*), and ending with another on the scheme of verbal contractions employed by him in the work (*tantrayukti*).

Other safeguards, which Chanakya could not perhaps have foreseen, have sprung up to protect his work from alteration. To begin with, unlike the *Dharmasutras* which were manuals for the use of particular *charanas* or Vedic schools, the *Arthasutra*, was by its nature, common to followers of all Vedic schools. Rules of law and conduct, on the other hand, like those contained in a *Dharmasutra* are of interest to all classes of men

equally, while, from their highly specialized nature, the contents of the *Arthasutras* would have attraction only to princes and those destined to administrative careers. Thus, the *Arthasutra* shared with *Dharma-sutra* the character of having a limited circle of students, while it had, in common, with the later metrical law-books or *smritis*, a feature of universality in that it appealed equally to men of *all* the Vedic schools, among the twice-born. This feature made the temptation to interference with its contents less, and the chances of detection of any tampering greater than in the case of the law-books.

A second accidental circumstance restricting interpolation must have been furnished by the growing unintelligibility of the meaning of the *Arthasutra*. This may perhaps be due to the circumstance that, as pointed out by Professor Rhys Davids, in a similar case, in the preface to his translation of the *Dialogues of the Buddha*, page xxi, *a sutra book was not intended to be read*. It was intended to help the students to follow their Master's lectures and to memorize what had been taught. The sutras of Kautilya are often, and naturally, fuller than the other sutras. But for such fulness, they would have rapidly become completely unintelligible, especially as from their nature, the meaning of the *Arthasutras* must have been kept within a close circle. While no one is interested in keeping an aphoristic work on grammar, or philosophy, or religion or even law as a *mystery*, powerful interests become desirous of maintaining the inviolable secrecy of the interpretation of such important—one may almost say dangerous—works as the *Arthasutras*.

This point is worth some elaboration as it may help in part to answer a question raised earlier, as to why the *Arthasastra* of Kautilya has always been rare, and why it appears to be quoted, when quoted at all, with an



appearance of learned self-consciousness. It may also serve to explain why when the works in other branches of knowledge are numerous, those on *Arthasastra* are so few. It is certainly significant that every work on the subject of *Niti* or *Artha* has to explain its existence—stating either, directly, as in the case of Chanakya, or by implication, as in the case of Somadeva, that it was written for the guidance of a prince, or professing to be the abridgment of such a work, as in the case of Kamandaka, or claiming to be the work of a famous sage—as in the *Nitis* of Sukra and Vaisampayana.

When the fewness of the extant schools of *Arthasastra* is contrasted with the indications we now have of the intellectual activity in the field of Politics and Economics in the days of Chanakya, and the generations before him, the conviction is forced on us that mere moral or intellectual degeneracy could not satisfactorily explain decadence in this respect, for such a decline must, if general, be traceable in every branch of intellectual activity; and no such decline could apparently be referred to. Nor would the triumph of Buddhism over Hinduism be any explanation of the circumstance, for when a Jain like Somadeva could write a treatise on Politics, adapting the work of the *Brahman* Kautilya, a Buddhist could have equally done so. Nor could it be due to the rise of dynasties of non-Hindu or of Sudra origin. For we have in the much later *Sukranitisara* amusing attempts at reconciling Brahman claims and immunities with the need to treat politely the susceptibilities of those of influence who were not among the twice-born. An explanation that would appear to meet the case, all round, is that the unification of a large part of India, for a fairly long period, under a single ruler or dynasty or throne, made it unnecessary and undesirable to perpetuate or continue such free discussions on Politics. Were we to accept, as true, the

tradition that Chanakya was the contemporary of Chandragupta Maurya, the fate of his work and of the schools of Politics which had been active in and before his time, will become intelligible. The prolongation of an empire's existence to the unusual length that fell to the lot of the empire of Magadha, and its extension over so large an area, may have made it an object of imperial concern to close the academies where *first principles* could be applied to such delicate questions as those in the discussion of which Chanakya and his predecessors seem to have found delight. And, where the chief works were in Sutra form, and were treated as fit only for a very select esoteric section of the community, the chances of their survival would appear to be less than those of their speedy extinction. If it be true that Chanakya was responsible for the building up of the empire whose triumph made the continuance of such works as his undesirable, cynics among historians may have another instance of a man's work proving *too thorough*. Let it also be borne in mind that, to the generations, which believed in the *Puranas*, the share of Chanakya's wisdom in the erection of the Mauryan empire must have appeared so real, that it should have roused public curiosity to infringe and royal vigilance to protect the mystery of his teachings and opinions.

These are surmises; but, they are not altogether baseless. Kamandaka who appears to have been separated by a long interval from Kautilya, whom he lauds, expressly declares that he summarises Kautilya's *Arthashastra*. And yet, in doing so he omits altogether the subject-matter of *four* books out of the fifteen of the original—forming in length about half the work, and in importance, not less than half. For, the omitted portions deal with the elaborate description of the administrative system, (Book II), and the shorter statements of civil and criminal law—besides a whole book containing spells in

the efficacy of which Kamandaka must have believed as implicitly as his model. That the subject-matter omitted was still deemed of general interest is evident from the circumstance that *Sukranitisara* (which, in its present form, is probably not older than Kamandaka's work) deals with part of it. The suspicion that the professed admirer and apologist of Chanakya did not quite understand his original, and, therefore, omitted what he failed to grasp is strengthened by two circumstances. These are, (1) Kamandaka's habit of almost literally turning into verse the aphorism of Chanakya in which he meets the position of a previous writer, without any indication of his understanding clearly the point at issue, and (2) the importance which Kamandaka gives, in the hierarchy of government, *against the spirit of Kautilya's teachings*, to court parasites, favourites, female attendants in the seraglio, jesters and *astrologers*. Another circumstance leading perhaps to the same conclusion is that Vaisampayana's *Nitiprakashika* appears to borrow freely from Kamandaka, while, at the same time, it does not give any indication of being familiar with Kamandaka's original.

We may now proceed to a consideration of the second point, namely, the chronological position of Kautilya's *Arthasastra* in our literature of Law and Polity. In regard to the latter it is needless to consider any further question except the priority of the *Arthasastra* to the *Nitisara* of Sukra, since Kamandaka's work (which Messrs. Kane and Ganapati Sastri would assign to the period between Kalidasa and Dandin), is a professed abridgment of Kautilya's and Vaisampayana's book is based largely, though without acknowledgment, on Kamandaka's. In regard to the Dharmasastra literature it would be sufficient to compare the *Arthasastra* with two well-known works of great and abiding influence, namely the extant Smritis bearing the names of Manu and

Yajnavalkya. To the former, in its present form Dr. Bühler has, after careful research, assigned a date between the second century B.C. and the second century A.D. The latter, Dr. Jolly once assigned to the first century A. D. But, as admittedly, Manu's Smriti is obviously anterior to the Smritis of Vishnu and Yajnavalkya, there has been a tendency, since Dr. Bühler's translation of Manu was published, to bring the date of Yajnavalkya's work to about the middle of the fourth century A. D. These are points to remember with reference to the argument that follows. For, if it be clear that the *Arthasastra* is much *anterior* to Manu's *extant* work, its date of composition will be brought within measurable distance of the period, in which Kautilya is *traditionally* stated to have flourished; and, thereby, an important step would have been taken in establishing the authenticity of the *Arthasastra*.

To begin with, we may compare Manu and Sukra with Kautilya. Kautilya allows *Niyoga* (the appointment of women) in its ancient fulness, equally to widows and to the wives of men afflicted with disease. His views are, in these respects, similar to those of Gautama, the author of the oldest extant treatise on Indian law. (Sixth century B.C.). Manu roundly condemns the practice of *Niyoga* (IX. 64). Again, courtesans are, according to Kautilya, to be organized under a department, for police, sanitary and sumptuary purposes and are to form members of a recognized Government institution. Manu would unhesitatingly punish them as being a public scourge (IX. 259). The ancient vices of gambling and drink are allowed by Kautilya, who would provide for their regulation and control by the State, viewing them not merely as *necessary* evils, but as valuable aids to the police and the fisc. Manu would punish gambling (IX. 226) and treat the use of intoxicants as a deadly and

almost inexpressible sin. The much later fragments of the institutes of Brihaspati are aware of the contradiction, and notwithstanding their own teaching that any text opposed to Manu loses its binding force, they would permit gambling under State supervision, for the purpose of helping to detect crime. Again, Kautilya knows of remarried widows, and unmarried mothers. Manu forbids such remarriage (IX. 65; V. 161-4), allowing an exception only in the case of those who are widowed as virgins. Again, in Manu (IX. 225) heresy entails banishment. Sukra would go further and assign to the State the duty, which in English law was, or still is, its, viz. the punishment of blasphemy. Kautilya, on the other hand, would go no further than deprive apostates of the right of maintenance from the family estate, and even there he would make an exception in favour of the mother's right to be *always* maintained by her offspring (p. 48). In regard to succession, Kautilya would give special shares to the eldest and other sons in the private estate, but would ordinarily recognize a right of primogeniture in the succession to the throne. This Manu would apparently also allow. But they differ in regard to the *equal* rights of sisters in inheritance. Again, Kautilya forbids suicide of every kind and penalizes it by stringent post-mortuary punishments directed against the suicide, and penalties enforceable against those who attempt or those who condone suicide. This prohibition would, therefore, extend to *Sati*, the immolation of widows. Manu will only interdict libations to suicides (V. 89) and apparently go no further. Sukra, on the other hand, distinctly permits *Sati* (IV. IV. 57). Kautilya condemns royal addiction to astrology (p. 349), though an astrologer is among his list of Court officers, Manu would only attach impurity to following astrology as a profession, while Sukra believes in it thoroughly, even having passages, whose

curious resemblance to similar ones in Varāhamihira's *Brihatsamhita* (about A.D. 505) would call for explanation. Lastly, Kautilya believes in the immunities of Brahmans in several matters, frees them generally from corporal punishment (p. 220), only providing that they be branded, or imprisoned in cases of *serious* crime, exempts their property from escheat (p. 161) and from forced contributions (p. 240), and even provides for their receiving substantial largesses from the King, in cases where an innocent man has been punished (p. 234). In these, he is like Manu, though he does not go to the lengths to which Manu would proceed in giving such privileges and immunities (VIII 379-381; IX. 229, 240-242). But, Kautilya would apparently not exempt even Brahmans from the law against suicide (p. 217), while in cases of their committing treason he would have them drowned (p. 227) and he would also allow Brahmans to be killed in the battlefield or in self-defence. He would allow Brahmans to marry below their caste, and to enter the army as soldiers. Manu would interdict both (III. 13-19 and 155) and restrict the number of professions open to Brahmans, *even in times of distress* (VIII. 339; X. 81-94, 101-114; 116-117; XI. 11-23). Sukra would appear to follow Manu in these respects.

Such examples of resemblances and differences of views may be multiplied. They would tend to show that, as regards date of composition, so far as may be judged from their subject matter, the *Manavadharma Sastra*, in its *present form*, belongs to a later age than the *Arthasastra*, and stands between it and *Sukranitisara*.

The same may be said of the chronological position of Manu in regard to Kautilya and Yajnavalkya, since the law-book of the latter shows unmistakable signs of belonging to a period long *subsequent* to that in which the existing recension of Manu was made. The important

point in regard to the relations of the treatise of Kautilya and Yajnavalkya-smṛiti is not so much their relative chronological position as the remarkable parallelism, often amounting to identity, between their pronouncements in criminal and even in civil law. The learned pandits who have respectively introduced the recent editions of the *Arthasastra*, and the four commentaries on Yajnavalkya (viz., *Mitakshara*, *Balakrida*, *Balambhatti* and *Subodhini*) have already brought to light several instances of this feature and I have observed some more. These passages appear to show *first*, that Yajnavalkya was the follower and Kautilya the model, *second*, that occasionally the meaning or the significance of the original was also perhaps not quite clear to the later writer, and *thirdly* that there *were* strong grounds for the Yajnavalkya-smṛiti borrowing from Kautilya's *Arthasastra* rather than from the *smṛiti* literature current in his time. It is submitted that the motive for this imitation or borrowing was the eminently practical nature of the *Arthasastra*—the feature which one would naturally look for in a work claiming to be by the most practical-minded political theorist of Ancient India. In the centuries immediately preceding and following the Christian era, the troubled conditions of India, should have made the claims and teaching of the *canonical* law books harmonize far less with actual conditions than the precepts of *secular Arthasastras*. The remarkable extension of the influence of Yajnavalkya's law book all over India, resulting in its becoming almost the final authority on law for most parts of India, may itself be due to its reflecting the usage and the tendencies of the times. If this hypothesis of the obligation of Yajnavalkya to Kautilya is justified, we shall have another unique proof of the enduring influence of a political theorist on the history of his country. It is certain that, in the eleventh century, when Vijñaneswara

wrote the *Mitakshara* on Yajnavalkya, the teachings of the smṛiti largely coincided with the practice of the people, for he declares pointedly—‘The texts in this section are mostly recitals of what actually prevails among the people.’ The same view is taken by the digest writers of later times, Bhatta Nilakantha comparing (in the *Vyavahara Mayukha*) civil law to grammar, on account of being based on usage, and Mitra Misra repeating the statement.

The last question for consideration, under this head, is the authenticity of the *Arthashastra*. That is to say, granting the tradition in regard to the personality of Kautilya and his work to be substantially true, we have yet to see how far the *substance* of the *Arthashastra* justifies its attribution to such a man (of the fourth century B.C.) as Kautilya is believed to have been. The settlement of this issue will have an importance in a historical study of our institutions that cannot possibly be overrated. For, we have already seen reasons for taking the *Arthashastra* to be the production of a single author, who should have lived *long before* the existing version of the laws of Manu was composed. If a further examination of the contents of the *Arthashastra* tends to establish its authenticity, the evidence already collected in favour of its antiquity and homogeneity will go far to ripen presumption into proof—and to enable the work to be attributed to the *traditional* Kautilya. And, the settlement of the question of date and authenticity in the case of so unique a work is bound to exercise some influence on the nature and direction of all future studies in the history of ancient Indian culture and life.

To proceed with the evidence—we may, for convenience, classify it under six heads, as the data refer to,—religious, political, historical, literary, philological or



astronomical matters, and take them up for consideration one after the other.

To begin with the data relating to religious conditions—we have first of all Kautilya's undeniable superstition and sacerdotal leanings.

If his rule regarding the distribution of sacrificial wages (p. 186) be merely for the convenience of people in an epoch when such disputes might often arise, the same cannot be said of his prescription of a specially heavy fee of 1,000 *panas* for the royal charioteer, when the king performs the *Rajasuya* and other rare sacrifices (p. 246). This statement, combined with the Brahmanical curriculum, he provides for the education of princes (who are to learn the three-fold Veda and its adjuncts among other things) would show that the ruler (*Narendra*) for whose guidance he expressly composed his work was a follower of the Brahmanic religion. Kautilya, who warns princes not to indulge in astrology, is a firm believer in the Brahmanic theory of the universe. He states that the prevalence of *pratiloma* or improper unions between the sexes is the result of regal neglect of sacred precepts or virtue (*dharma*) (p. 165). He believes in and repeats the well-known story (that we have in the *Mahabharata*) of the social compact between the first king, Manu, and the race of man (p. 22-23). He believes in the potency of spells, the power of goblins and evil spirits, the efficacy of incantations and witchcraft, and even goes to the length of providing a series of spells to be used on special occasions (pp. 206, 208, 418, etc.). While classifying the recipients of State pensions and salaries, he places the three spiritual guides, of the Brahmanic caste, viz. the Priest (*Ritwik*), the Preceptor (*Acharya*) and the Chaplain (*Purohita*), in the highest class, along with the Queen-mother, the Queen-consort, the Heir-apparent, the Prime

Minister and the Commander-in-Chief. Among the gods he mentions as worshipped in his time, there are none, with the exception of Siva, Brahma and Senapati, of the popular deities of a later epoch. They are either old Vedic gods (Indra, Varuna, Agni, Yama, the Aswins, Vaisravana), the epic Digpalakas or the forgotten popular deities Aparujita, Apratihata, Jayanta, and Vaijayanta.

- *There is no direct reference to Buddhism or Jainism* anywhere in the work, and the prohibition of suicide (including religious suicide) is decidedly anti-Jain, as the provision of State slaughter-houses and schemes of Vedic sacrifices would be also anti-Buddhist. The terms Chaitya and Stupa do indeed occur, but only in the original sense of burial mounds or crematoria, haunted by evil spirits and bad characters, and not in the sense of places of Buddhist worship. He mentions shavelings (मुण्डाः), those of the matted hair (जटिलाः), heretics (पाषण्डाः) female ascetics and mendicants (परित्राजिका) and (भिक्षुकी), but these may refer only to unorthodox Brahmanical Sectaries and not necessarily to Buddhists or Jains. The prohibition of the castration of animals (which would recall Asoka's law on the subject to our memory) may be viewed less as due to Buddhist influence than as common humane feeling and practical wisdom. And, in the rule prohibiting people, by stringent penalties, from becoming religious recluses or anchorites till they had made suitable provision for their families, we may either see statesmanship or prejudice against the Buddhists or Jains. However we look at them, the religious data afforded by the work would lead to the conclusion that it is the production of an age in which, to put it mildly: (1) neither Jainism nor Buddhism had *come* to sufficient prominence to be regarded as serious rivals to the existing Brahmanism, and (2) the later *Hinduism* had not yet been evolved.

The political data furnished by the *Arthasastra* are even more valuable. To begin with, we have a monarchy, as well as a specific statement, which we have no reason to disbelieve, that the work was written for the guidance of 'a king of men'. The elaborate and detailed character of the work, which makes it half encyclopædia, half state-manual, arouses the feeling that Kautilya was largely describing what he had personally witnessed, or considered easily realizable in the kingdom and under the conditions in which he lived. (Cf. D. R. Bhandarkar, *Ind. Antiq.*, vol. 40.) The king is practically an autocrat, who is generally inaccessible, showing himself to the people only once in a month or two months, in order to prevent disturbances caused by rumours of his death (p. 252). He is so removed from common folk that he is to converse with envoys and subjects only through his ministers (p. 252). He is constantly guarded by troops of women armed with bows (p. 49), a feature noted of Chandragupta Maurya by Megasthenes. During his progresses, staff-bearers are to guard the whole route (p. 51)—which is also a feature noted by Megasthenes. Much importance is attached to high birth, not only in royalty, but even in officers for it is stated that—'prosperity and the people follow one of good ancestry' (जात्यं ऐश्वर्यं प्रकृतिरनुवर्तत । p. 324). The position of the ruler is so exalted, that impalement is the punishment appointed even for the man who merely teases the king's animals (p. 227). But, at the same time, the king lives in an atmosphere of suspicion and treachery, guarding himself even from his family, for, 'princes like crabs have a well known trait of eating up their parents' (p. 39) and confiding rulers had come to grief (p. 41). The royal blood is so sacred that like the Brahman's it cannot be needlessly shed, and the heaviest punishment for an offending or unruly prince of the blood is

only imprisonment (p. 344). The king is to be assisted by a grand council and an inner cabinet of ministers. The rise of a vazirate is expressly provided against by the rule that no absolute authority vests in any minister, (p. 254), and by the existence of an elaborate administrative hierarchy, which is apparently to act as a set-off to the power of a sole minister. The public service is organized in many highly specialized departments, whose routine and functions are detailed with meticulous care, provision being made for a system of counter-checks, periodical audits, and even for yearly administration reports to be presented in the month of *Ashada*. That the public service was costly is evident from the scale of remuneration for officers which is described on p. 247, the rates of pay ranging from 48,000 golden *panas* for the highest officers to 4,000 *panas* for colonels of infantry and commandants of forts, and still lower pay to the lower officers. These features would denote a large, opulent and well-organized kingdom. That the State was not primitive and that it was strong enough to assert itself is evident from the substitution of sentences of death, mutilation, imprisonment and corporal punishments for the archaic schemes of fines and wehrgilds that we read of in Vedic literature. It is further indicated, perhaps, by the significant rule that 'the king should pay for services only in gold and not by gifts of villages' (p. 247). In the military department much stress is laid on elaborate organization and discipline, the retention of a standing army, and upon the possession of a strong elephant corps—victory being said to incline to the side which is strong in elephants.<sup>1</sup> The last point is very important, since we must recollect the unusually

<sup>1</sup> 'The king of the Palibothri has in his pay a standing army of 60,000 foot soldiers, 30,000 cavalry, and 8,000 elephants,'—PLINY.

large contingent of elephants assigned to the kingdom of Magadha by Greek writers, as compared with other sections of the army—and we also remember that of all ancient Indian kingdoms that of Magadha alone had apparently this unique feature. In regard to *forms* of the State, Kautilya knows of free aristocracies of a tribal kind, and has a whole section devoted to the means by which their governments may be corrupted and their freedom undermined—means, which are curiously similar to those by which, as we learn from the Buddhist and Jain canonical writings, the neighbouring kings of Kosala and Magadha overcame the tribal republics of Videha (Tirhut) and of the Nepalese region. And lastly, there is a remarkable passage in which Kautilya maintains, as against his own teacher's view, the superiority of routes to the Dakhan over those to the Himalayan districts, *as desirable additions to a king's possessions* preferring the Dakhan for its diamond and gold mines, pearl and chank fisheries and numerous and opulent marts (p. 298). It is hard to believe that this is a mere academic discussion, and not an echo of an ancient controversy. If, from the drift of all this evidence, we accept provisionally the hypothesis that Kautilya was a contemporary of Chandragupta Maurya, the discussion just referred to solves a difficult problem raised by Mr. Vincent Smith as to the *time* when the Dakhan became part of the Mauryan empire. We know that the Dakhan and Nepal formed part of Asoka's empire, and even of his *inheritance*, for the *only* conquest of his reign was, according to his own statement, that of Kalinga. At no subsequent period could the conquest of these regions have been a hotly debated question of policy, for, except in the time of the Guptas and Harsha (A.D. 606 to 648)—who come too late in history to have the reference in Kautilya's work applied to them—no other dynasty or king appears to have made the attempt to acquire *both*.

May we not reasonably conclude, from this passage, that in Kautilya's time these annexations had *not* been made, while they had been so made *as a matter of fact before 273 B.C.*, when Asoka became emperor.

As minor points suggesting Kautilya's connection with Magadha, or at least a country like it, we may cite the scant importance he attaches to forts (valueless in such great plains), the provision of superintendents of ferries, river-tolls and the navy in his scheme of public administration (as would be natural in a riverain country), his advocacy of great royal hunts (p. 327), such as are described by Megasthenes as those in which the king of Magadha delighted, and as were abolished by Asoka, his magnification of floods over fires among calamities, and his description of the kingdom as one of many cities.

The historical and literary data are also significant. Among the former may be mentioned the fact that the names of kings quoted by Kautilya are either found only in the *epics*, or are still unknown to history, like those of Bhoja Dandakya, Karala Vaidehaka, and Ajabindu the Sauvira. In spite of his glorification of kingship and royalty, apparently the position of monarch was not oversecure, perhaps, because the monarchy was still young; for Kautilya gives elaborate instructions as to the devices by which the king might impose on his subjects, so as to obtain a name for ubiquity and omniscience which would strengthen his hold on the people (p. 211). Kautilya also knows of interregnums (p. 35), and cases in which kings have lost their lives in popular tumults, as well as of usurpations, abdications and annexations by conquest. The aristocracies or free clans he speaks of are those of the North-West Frontier and Gujarat, (Kambhojas and Surashtras)—near which such organizations appear to have existed in Alexander's days, or those of the Lichchavis,

Vrijjians, Mallas, Kurus, and Panchalas—tribes famous in the early history of Buddhism.

In regard to *literary* testimony, the important points are Kautilya's hundred scattered references to seventeen previous writers, or schools of Polity. Among them are the famous schools of Manu, Sukra or Usanas and Brihaspati, besides Kautilya's unnamed teacher, always respectfully mentioned in the honorific plural, even when being subjected to scathing criticism (p. 261), and six other heads of schools (Bharadvaja, Visalaksha, Parasara, Pisunah, Kaunapadanta and Vatavyadhi), who are enumerated always in the same order, suggesting that the earlier names are those of the older authorities. The views of the schools were apparently lost by the time of Kamandaka, though the opinions of two of them are quoted by Medhathithi the erudite ninth century commentator on *Manusmriti*. Further, it is noteworthy that the references to the views of Manu, Brihaspati and Sukra are not only *not always* traceable in the existing works bearing those names, but are contrary, at times, to the views actually found in the existing recensions of their works. These facts would, accordingly, necessitate the attribution of a very high antiquity for Kautilya's *Arthashastra*—and the *Sutra* form in which the work is composed will lend an additional confirmation to this conclusion. The numerous points of difference between Kautilya and his predecessors, a few of which are on questions of fundamental importance, while the majority are on points of detail, would indicate an atmosphere of lively academic discussions on points of worldly affairs and administration, recalling to our memory the subtle controversies on ethics and religion in those epochs of intellectual fermentation that witnessed the composition of the Upanishads and the rise of Jainism and Buddhism. May these also not show how intensely the Indian mind in those days strove after truth and

excellence, in *worldly* as much as in spiritual and moral questions, and how in spite of the depressing effect of the intimate association of religion with science, a continuity of tradition in favour of *independent* thought in political theory was kept up, right down to the time of Kautilya? The discovery of the existence of these eighteen schools of polity,—and the possibility suggested thereby of the existence of other and unnamed schools—should assuredly prove a corrective to the prevalent belief of our day in the total absorption of the ancient Indian intellect in metaphysical speculation. May we not also look on it, with some pride, as indicating the presence of extensive schools of political thought and opinion in ancient India, in the days corresponding, and even anterior, to those of Plato and Aristotle, if, the remaining data—the philological and the astronomical—do not militate with the conclusion to which all the other evidence has hitherto led—namely the contemporaneousness of Kautilya and the founder of the Mauryan dynasty (321 B.C.)? <sup>1</sup>

We have seen how in the vast body of material out of which we have to reconstruct a picture of the political conditions of ancient India, especially in what are somewhat invidiously described as the *historical* epochs, a very large place has to be assigned to our voluminous literature of *Dharmasastras* and to the comparatively scanty and recently recovered literature of Polity proper. But even when the importance of these branches of literature to the historian is conceded, we may still have to meet the general disinclination to admit the historicity of their contents. To many, the celebrated dictum of Sir Henry Maine in regard to the Code of Manu would seem to apply with equal force and justice to every Indian work

<sup>1</sup> See Note in the Appendix on these two classes of data.



on law and politics. 'The Code of Manu' wrote Sir Henry Maine, in 1861, (*note the date*) 'does not represent a set of rules *actually* administered. It is in great part an *ideal* picture of that which in the view of the *Brahmans* ought to be the law'. Putting aside the other implications of the verdict, the main proposition, which denies history to the subject matter of the Code—can hardly be maintained to-day in regard to the *entire* content of even the Manu Smriti, and much less to some of the other *Dharmasastras*. We now have in the *Nitisastras*, an independent body of literature, whose origin, standpoint, outlook and standards differ from those of the canonical law books. A comparison of the passages—and they are very many in number—which disclose an identity of view, precept or statement in both classes of works justifies the conclusion that every instance of such general identity may be deemed to be an approximation to fact, to the actual conditions of the times in which these works were composed, for it is inconceivable that practical men like the writers on *Nitisastra*, who based their precepts on *experience* (*vide* Kautilya) should have written on the basis of *idealized* rather than actual conditions. To the author of a work of the canonical law, the treatment of civil conditions was adventitious and not obligatory, e.g. *cf.* Parasara; and the true standard of right and wrong was furnished by religion. To the author of a *Nitisastra* or *Arthasastra*, on the other hand, the material and civil condition of the population was the real subject of investigation, and common sense and logic the final and sole tests of validity. It is hardly necessary to enlarge further this difference between the canonical law-books and the books on polity. It should suffice to say that it is on this ground that a canonical law book would claim to supersede a mere work on polity. '*Dharmasastra* is stronger than *Arthasastra*' urges Yajnavalkya (II. 21). In

the conditions of ancient India, as will be shown in the next lecture, the *Dharmasastra* had the task of regulating certain matters of conduct; and hence it is that, even Kautilya would appear to accept this claim of the *Dharmasastra*. Thus, in a striking passage, he says: 'The science of affairs (*Vyavaharakam Sastram*) has to rest on the canonical laws (धर्म). Hence, where the sense of a text is obscure, it has to be found by reference to the canon (धर्म). Where, however whether *within* the body of canonical law or in the science of affairs (*sastram vipradipadyeta*), there appears to be a conflict of canon and logic, (न्याय) logic should prevail, and the text opposed to it lose its validity' (p. 150).

Apart from the claim to historicity based on identity of statement in *both* classes of works, we have other grounds for the position taken. We have thus to consider several circumstances. The administration and the enunciation of law rested in the hands of the very class responsible for the *Dharmasastras*. This body had all the advantages of forming a learned class, specially dedicated for learning and kindred work. The control of the education of the people—and, what is more important, *of the princes*, lay in the hands of this very class. The influence and prestige of this body was increased rather than diminished after every influx of a foreign element in the Indian population, every such foreign race soon proving anxious to obtain the recognition implied by its admission into the Hindu fold through the co-operation of the members of this class. Its influence waxed rather than waned with the rise of non-Hindu or non-Kshatriya rulers and dynasties. And, the high watermark of its power was—paradoxical as it may appear to say so—usually reached *after* a period of foreign immigration, inroad or conquest—

as for instance in the epoch of Gupta supremacy, following the irruption of the Yavanas (Indo-Bactrians and Indo-Parthians), the Sakas, the Kushanas and the Pallavas, and in the Rajput period, after the inroads of the Hunas, the Gurjaras and kindred races. If, we recall to our minds similar instances in European history—the insensible transformation of Roman law by the influence of the bar (on the bench) (to which Sir Henry Maine drew attention), the silent changes effected in English law in the thirteenth century through the agency of ‘popish clergymen,’ who were trained in the systems of Roman and Canon law (changes which have been described very fully by Maine, Maitland and Prof. Vinogradoff) the expansion of Roman law in Medieval Europe (of which Professor Vinogradoff has now given us a most fascinating picture) and the ecstasy of the barbarian conquerors of the Roman empire, whenever the distant emperor whose lands they had ravished, chose to address them a few ordinary compliments—(instances of which would be familiar to Dr. Hodgkin’s readers)<sup>1</sup> we shall, by analogy, be able to realize the transforming influence of Brahmanic law and polity in ancient India. That these inferences are not based entirely on analogy or surmise will also be clear if we take into further consideration the imposing series of references in our inscriptions, and in the literature of India and Ceylon,—from the Gupta period down to the threshold of modern times,—in which the rulers of different parts of India, living in different times, often rulers of non-Aryan descent—display keen anxiety to be remembered by posterity as *those who strictly carried out the*

<sup>1</sup> Cf. ‘At the close of the sixth century, as Dr. Hodgkin notes of Childebart’s fourth invasion of Italy, “mighty were a few courteous words from the great Roman Emperor to the barbarian king,”—the king whom Maurice the *Imperator semper Augustus* condescends to address as *vir gloriosus*.’

*precepts laid down by Manu, the Dharmasastras and the Nitisastras.*

The scientific value of a historical deduction must depend primarily and ultimately on the conditions in which it is arrived at. It is on this ground that the investigation of the extent and the character of the sources available for study, forms the first step in historic research. Now-a-days, there is indeed little necessity for the student of history to enlarge on the glories of the comparative method, as the somewhat prosaic conclusion has been reached that science is one, and that the method of history is that of any other social science. These are some of the general considerations on which I would seek to justify the extended discussion of the range, nature, date, and validity of the original authorities that we now possess for the historical study of our old institutions, and especially the extent of my study of our most interesting source. To attempt any historic reconstruction without a preliminary investigation of this kind appears to me to be, at the present time, both futile and misleading. For want of such inquiry, much unequal work, which 'combines the information' gathered from sources of different periods, localities and character, has been in evidence, not merely in the periodical literature of the day, but in 'standard works' in which, agreeably to the tendencies of the times, sections, 'neither too long nor too serious', sum up 'the society and manners', of wide epochs. A meritorious book, which represents much valuable work, accepts, for instance, the tradition about the synchronism of Chandragupta and Kautilya and their relations, *in all their detail*, without making serious attempt at any enquiry or proof. If, in the light of what has been said in the course of this lecture, it be held that in this daring surmise we have a proof or a vindication of the historian's *instinct*, an unimaginative student of *facts* may

still urge that the more the area of such guesses, happy or otherwise, and of easy acceptances of tradition are circumscribed, the happier will the future of research in our ancient history prove. What would such a student of history say to another authority, as eminent as the writer just referred to and still more recent, who warily refers to Kautilya's *Arthasastra* as 'an early work'—how early he does not say, because he does not attempt to discover it, and who proceeds less cautiously to *combine* the information in the *Arthasastra* with that regarding polity given in the didactic chapters of the *Mahabharata* and in the canonical law-books from Baudhayana to Narada which are separated from each other by an interval of centuries? Is the student to assume an identity of views and outlook among all these writers, and also an absence of progress and even movement, both in the world of theory and in the world of facts, during this great stretch of time, in order to validate the historical averaging, represented by this fashionable tendency to 'combine information'?

The necessity to subject these propositions to scrutiny will appear pressing to any one who has found his pleasure in the study of our institutions and has witnessed the paralysing effect of these assumptions on historical studies in our country. It is, however, impossible to attempt such an examination with any degree of fulness in the course of this lecture. Accordingly, I would restrict my remarks to merely indicating how far the general history of India appears to confirm these hypotheses.

It would, of course, be admitted generally that a *question of survival* is one of fact, verifiable from observation in life or in the records of the past; and that, specifically, in regard to survivals of Indian polity, such traces of the ancient form of government and administration, and the old ideals, are to be found even to-day in feudatory India,

for example, the States of Central India and Rajaputana. The careful observations of B. H. Hodgson in Nepal, towards the end of the first quarter of the nineteenth century show that, in general and judicial administration, the conditions of Nepal in his day closely approximated to those of pre-Musalman periods of Indian History. We know that such institutions had also persisted in the Maratha country down to its conquest in 1817. It is also now a matter of common historical knowledge that Sivaji *revived* the ancient form of the Indian State, on his coronation in 1676. A comparison between the nomenclature and functions of the members who formed his council of eight ministers (*Ashtapradhan*) and the list of his state departments, as given in Sabhasad's *contemporary* account, with those of the royal council in our books, would reveal how closely the system of Sivaji followed those recommended in *Manusmriti* and *Sukranitisara*. The reception of his measures, and their persistence, in several features, for nearly a century and a half may show that he could not have been much of an innovator, and far less a revolutionary in political matters. We have, further, to remember in this context that at *no* period of Indian History, since the introduction of Islām into India, has India *not* had some considerable tracts free of foreign rule, where the ancient ideals and institutions could survive. Going further back in our history, the numerous records of the 'dark āges', when neo-Hindu and Rajput dynasties struggled for supremacy with one another, and towards the end of which the Musalman invasions commenced, would tend to show that the Rajput ideal aimed at the revival not merely of the *epic* spirit but also, as far as was feasible, of the *epic* institutions of government. The invaluable testimony of the *Rajatarangini* of Kalhana, the historical value of which is admitted for the ninth, tenth, eleventh, and twelfth

centuries A. D., as well as of the recently collected inscriptions of the Himalayan State of Chamba, whose publication we owe to the enlightened patriotism of its present ruler (H. H., the Raja, Bhuri Singh) and to the historical zeal of Dr. J. Ph. Vogel, proves that, as in Nepal, the sheltered backwaters of life in Kashmir and Chamba largely escaped the destructive cyclonic violence of the early Muhammadan conquests. Should we go further back in our history, we come to the Silver Age of Harshavardhana, in which attempts were still made as strenuously to live up to the ancient ideals of the canonical books and the precepts of the *Nitisastras*, as in the Golden Age of Hinduism, which dawned with the rise of the imperial Gupta dynasty. Sir Ramakrishna Bhandarkar has taught us that the Gupta period saw the wholesale revision and adaptation of Brahmanical literature in order to suit the altered conditions of the day and the militant character of the neo-Brahmanism or Hinduism. We have already seen that the influence of the *Dharmasastras* and the *Arthasastras* remained unspent in this epoch, and that the composition of the *Nitisaras* of Kamandaka and Sukra is proof of this residual strength. These are the kind of facts which would show that at no period of our history has the influence of our ancient polity been quite mordant, and that in this sense, its persistence is one of the surest witnesses to the unity of Indian history.

I shall now end this lecture with an examination of the allied conception of the mental stagnancy of India. On this too the verdict of the history of our country and of our literature seems clear enough. Taking the word progress, in a non-ethical and purely scientific sense, we may assert, on the strength of the evidence we have already heard, that there was continual progress in political conceptions down to the time of Kautilya.

Students of pre-Mauryan history, and of the early Jain and Buddhist works, would also find that the progress of events in those days corresponded to the movement in political theory. After the days of Kautilya the conditions were, in a sense, unfavourable to the advance of political speculation. The extraordinary thoroughness of Kautilya's work, its eminent inductiveness and practical character, its unflinching logic and heedlessness of adventitious moral or religious standards, and its wide range of subjects and interests—which give it a unique combination of features that, in European literature, we find only separately in an Aristotle, a Machiavelli and a Bacon—must have co-operated with the rise of a well-knit empire of unprecedented dimensions, under the Mauryan and succeeding dynasties, to depress creative political thought, in the centuries after Kautilya. Nevertheless, it was impossible that such independence of political thought should die out altogether; for, the rivalry, if not the conflict, of two almost equally matched religions, which followed close on the heels of the political consolidation of the greater part of India, towards the end of the fourth century B.C., and Kautilya's daring attempt to treat of politics, as far as feasible, by itself and independently of religion and revelation, combined to enfranchise politics from religion. Another influence also worked in the direction of stimulating activity of political speculation. This was the working of the axiom of the common law of the time that it was the duty of the State and of the statesman to enforce every local, tribal, caste, communal or corporation usage or custom, that could be proved to be genuine, and to be not inconsistent with the interests or the mandates of the State. The frequent references, that we have in works on *Arthashastra* from Kautilya down, to local communities and corporate bodies, and the preoccupation of the authors of these works



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with problems and institutions, which in the language of our day would be those of the *central* as contrasted with the *local* government, should justify the conclusion that there was probably as much scope for development of political views, on account of the presence of this variety in uniformity, as the similar conditions of our ancient private law furnished for its *continuous* evolution and elaboration, down to our own times. Further, would not the way be smoothed for innovation, by interpretation, in the early assumptions, which had force as much in our polity as in private law, that law and equity, and the state and justice were convertible terms, and that the source of political, as of legal inspiration, was the entire body of our literature—Veda, Itihasa, etc., not merely a part thereof? What rule of law or what conclusion of political theory could not be condemned or justified by this test, as it seemed to an author, inequitable and impracticable, or otherwise? How valuable the opening thus afforded proved to the noiseless entry of new views or precepts in polity will be evident, if one tabulates the striking *differences* in opinion between the earlier and later writers on 'law'—and between Kautilya, and later writers like Kamandaka, the author of *Sukranitisara* and Somadeva—especially in such matters as those relating to the composition and constitutional position of the king's council, the immunities, special privileges or claims to preferences and the disabilities of the different castes, the proportion of the yield to be taken as the land-tax, the selection of the form and the rates of indirect and direct taxes, the proportion of the different elements of the army, the organization of the forces, tactics, the rules of war and international relations, the treatment of members of the royal family, the curricula of studies for princes, and the number, functions and relative precedence of the ministers of State and of the royal household.

If the information on these heads in our books of law and politics are tabulated, then compared with such stray information as may be culled from references in our inscriptions, and the whole be finally classified by author, period and area of prevalence, the evidence so collected and arranged—which, without going to this degree of elaboration, I have yet had before me in some degree, will go very far indeed to correct the prevalent notion of the unprogressive—in a non-ethical sense—character of our ancient institutions and political theory. The reduction of this current belief will long form a vital condition of a successful, historical study of Ancient Indian Polity.

## II

It is nearly five years since one of the foremost living historians, speaking on an occasion like the present at Cambridge, deplored that 'the forms of Government which are commonly classed as absolute monarchies have not received the same attention or been so carefully analysed as republics and constitutional monarchies,' and justified on that ground his selection of the constitution of the later Roman Empire as the theme of his discourse.

On somewhat similar grounds, I would urge an analytical study of the theory and *general* form, aim and consequences of our ancient schemes of Government, and devote some time this evening for part of such a consideration. It would be specially necessary to study the polity of the period of the great empires, when, externally at least, the constitution approximated to the popular conception of a despotism,—as the deceptive appearance of simplicity of a 'despotic' form of Government—in which the entire authority is vested in the hands of a single person—is usually provocative of indifference among students of politics.

The subject of our ancient constitutions has indeed attracted much attention in recent years, as the numerous contributions about them made by several enthusiastic students to our periodical literature would show. But these studies differ so materially in their pictures and their interpretation of our old polity and their conclusions regarding its nature, that it could hardly be urged that their abundance leaves little scope for any further study.

Thus, when we are told by one writer that 'the form of Government in Ancient India was *popular* and *not despotic*,' by another that 'the *primitive* Indo-Aryan constitution was a *democracy*,' and are assured by a third that 'the form of Government in Ancient India was always some form of *limited monarchy*,' we are apt to be a little bewildered by the array of half-truths and arbitrary generalizations, and to feel that the pointed form of such pronouncements must owe somewhat more to one-sided views of the subject than, perhaps, to hazy notions of what is implied by 'despotism', 'popular Government', 'limited monarchy' and 'democracy'.

Our sense of bewilderment is not likely to be lessened if, side by side, with these statements we consider the equally confident assertions of the *classical* school of Political Science on the Eastern State views which we can collect, for instance, quite easily from the published writings of Sir Henry Maine, and of which the following summary by T. H. Green may be taken as a fair sample:—

'The great empires of the East were, in the main, *tax-collecting institutions*. They exercised *coercive* force on their subjects of the most *violent* kind, for certain purposes, and at *certain times*, but they do *not impose laws* as distinct from particular and occasional commands. *Nor do they judicially administer and enforce customary law*. In a certain sense the subjects render them habitual obedience, that is they habitually submit when the agents of the empire descend on them for taxes and recruits, but in the general tenor of their lives their actions and forbearances are regulated by authorities with which the empire *never* interferes, with which it probably *could* not interfere without destroying itself. These authorities can scarcely be said to reside in any determinate person or persons, but so far as they do,

‘they reside mixedly in priests as exponents of customary religion, in heads of families acting within the family, and in some village councils acting beyond the limits of the family’.

We may pass over the obvious inconsistency underlying the above description—which is only Maine’s picture of the ancient empires of Persia and Mesopotamia touched up by Green so as to *fit* the assumed conditions of Ancient India—the contradiction implied in characterizing such a state as a despotism, i.e. an absolutism—which when of the genuine type is a form of government in which all the powers *must* be vested in the hands of the Ruler there being *no other concurrent and independent authority*, habitually obeyed by the people as much as he is obeyed, and which could lawfully resist him or call him to account. But, we have still to enquire how far it would be just to attribute to our ancient polity—as it stood, for instance, in the days following the accession of the Mauryan dynasty the *inorganic* character of a capricious, tax-collecting government, indifferent to the task of legislation and to the administration of justice, and intent only on being implicitly obeyed, whenever it chose to intervene with violence in the affairs of its subjects.

These and some kindred matters I shall now proceed to consider.

In the most representative political thought of ancient India there is complete agreement on two matters—viz., on the idea of what constitute the essential elements of a State, and on the natural necessity for the State. In regard to the former, it is usual for our political writers to group the characteristic features as seven, under the heads of Sovereign, Minister, People, Fort, Treasure, Army and Allies (स्वाम्यमात्य जनपददुर्गकोश दण्डमित्राणि प्रकृतयः p. 255). These, put into general terms, would give

as the characteristics of the State: (1) unity, as represented by a common ruler, (2) a settled administration, as indicated by the existence of ministers, (3) a definite system of revenue, forming the source of the treasure, (4) an army, representing the strength, (5) a settled territory, occupied and held in adverse possession against the world, by means of (6) forts, and (7) independence of external control, as signified in the power to enter into alliances and the freedom to make war and peace. Such essentials of State-being are realized by Kautilya, as well as by Manu, Sukra and Kamandaka, and it is significant that they appear to be the features of the politics of the epochs subsequent to the invasion of Alexander the Great. The *superiority* in the scientific character of this conception of the State to that of the contemporary Greek view will be apparent, not merely by a comparison between them, which would serve to bring out the more modern tend of the former, but it will be enforced by the suggestion we have of these features having been inductively arrived at, in the time of Kautilya. The interesting discussion in the *Arthasastra* on the order of preference among these seven characteristics would not only be an indication of the possibility of conceiving of more or less complete types of polity in which one or other of these essentials may be absent (e.g. settled territory as in the Vedic State, international position as in the Vassal State), but also of the features of the epochs in which they were conceived. Among such features we may reckon the ceaseless internecine strife, which rendered foreign conquest easier than it otherwise might have been; bad finance and oppressive taxation, leading to disorganization and insolvency; external enemies, necessitating defensive tactics and resort to fortifications; and capricious and irresponsible personal rule, as inefficient as it was unpopular, making the growth of a civil service an object of



widely-felt desire. We know that these *were* some of the conditions that actually prevailed in North India during the period intervening between the conquests of Darius and Alexander. And, it is open to suggest that, it was from the consideration of these troubles and difficulties that the conceptions of the relative importance and interdependence of these elements of the State were evolved. However it arose, it is clear that a State of the type described in these definitions, with a history of internal growth behind it, with fully developed organs and functions, responsive to its environment, can with little justification be classed as an inorganic government.

Some *implications* of this attempt to define the State should also be borne in mind. The first is that *unity* is the inseparable feature of the State, and has to be preserved at all costs. The second, naturally following the first, is that the normal form of Government is *Monarchy*. The third is that the *administration* is highly *specialized*. The fourth is that the State rests on a *territorial* basis. The fifth is that it *imagines small states*, and the last is that it is founded on a weak international law.

It is evident that except the fifth feature every other was to be found in the Mauryan empire, which grew up by the absorption of many smaller states. But, though the imperial tradition persisted as a great ideal, in later ages, even after the fall of the Mauryan empire, and was strengthened by the myths of the epics referring to heroic *Sarvabhaumas* and *Chakravartins*, and the stories of ancient universal conquests or *digvijayas*, before such sacrifices as *Maha-abhisheka* and *Rajasuya*, and *Aswamedha* could be undertaken, yet, at no time was a complete unification of India accomplished before the days of the British conquest, and the normal type of ordinary states long continued to be the small-state, whose

safety necessitated resort to the intricate diplomacy so largely discussed in *Nitisastras*, Manu, and even the *Mahabharata*. The rules in Manu and Sukra regarding the duty of the king to administer justice and the finances *personally*, and to receive in person the daily reports of his secret agents and the rule of Sukra directing the king to make at least *one* annual tour *throughout* his territories to investigate the effects of his administration, would indicate the small extent of the kingdoms they had in mind.

It is significant that in regard to one of these functions of the king, viz., the personal administration of justice, the time soon came when, in the size of kingdoms and perhaps also in the complicated states of the law, it was impossible that the king should himself do this responsible work. Thus, Kalidasa, in *Sakuntala*, attempts to give a picture of an ancient king living up to this duty—in King Dushyanta's message excusing himself from attending to the trial of a cause, and asking the minister, the Brahman Pisuna, to take his place in the court. We have similar proofs in the *Mrichchhakati* of Sudraka (not *later* than fifth century A.D.) and in the later books on law, and even in Sukra, of the delegation of the supreme judicial power to either the chief Brahman (*Pradviveka*) or to specially constituted tribunals and officers.

Readers of Kautilya would remember that *he* does not make the attempt to overwhelm the king with the discharge of such duties—which should have been impossible even before his time, in the days of the Nanda Rajahs, in a kingdom of the size that Magadha had even then attained to. According to him there were to be several courts of justice in the kingdom.

They were to be of two *classes*: viz. *Dharmasthiya* (common and canon law courts), *Kantaka Sodhana*

(administrative and police courts),—presided over respectively by officers, in panels of *three*, bearing the styles of *Dharma-amatyah* (ministers of law) and *Pradeshtarah* (Directors). The first took note of all causes between subject and subject, while the second had to form, (1) standing commissions for the examination of serious crimes like treason, murder, violence, etc., (2) preventive organizations with wide jurisdiction and summary powers of overriding the ordinary law in the interests of equity and promptness of disposal, and (3) special courts for investigating cases of official oppression, misconduct and malversation.

Other precepts of Kautilya would confirm the conclusion to be derived from the review of his description of the administration of justice viz., that the kingdom he had in view was of large size. That such a kingdom was not normal is inferable from a comparison of Kautilya's precepts with those of Manu and Sukra, and the administration as described in the late law-book of Narada (sixth century A.D.) Thus, Kautilya does not hold that the king could see and do everything personally for his kingdom. As a wheel cannot turn itself, so a king cannot govern by himself. He accordingly needs ministers (p. 15). He is not ubiquitous, and so he requires ministers to carry out his behests (p. 18). 'All administrative measures must be deliberated on in a council of ministers' (p. 31). Ministers are the king's eyes. The god Indra is said to have a thousand eyes, because he has a thousand ministers (p. 35). Of all powers open to a king, the power of getting counsel is the best (p. 252). All acts have to find their root—i.e., to be initiated, by the ministers (p. 306). The only kinds of business that a king is asked to attend to *personally* are the business of the gods, of heretics and wizards, of learned Brahmans, of influential men, of departmental heads (*Tirthas*), and of

minors, the aged, the afflicted and women—and, he is counselled to regard their relative importance as indicated by the order of their enumeration (p. 45). That is, he is to safeguard himself from the evil results of the curses or the discontent of those whose imprecations were commonly believed to take effect, by attending personally to the transaction of their business. Even a superficial reading of Kautilya's *Arthasastra* should correct the suspicion that these duties alone are assigned to the king personally, because Kautilya failed to realize the importance of financial, judicial, and general administrative work, or because he underestimated the prestige and the usefulness of the king in the constitution.

The insistence on *unity* as the most important feature of the State—an insistence which must have gone far to strengthen the monarch's position, as the living symbol of this unity—would be quite explicable in the days of Kautilya, when the kingdom of the Nandas had crumbled through divided rule, and when the recollection of the ways in which the freedom of the republics of Videha (the Vrijjians) had been undermined and ultimately lost through dissensions and weak central authority, must have been fresh in the minds of politicians and of the common people. The importance attached by Kautilya to this feature is evidenced by his provision for the complete *merging* of conquered territories or kingdoms in the dominion of the conquering state, such old rulers or dynasties as survived the conquest being pensioned off and not kept as vassals; by the intense centralization of the Government which he describes and which aims at uniformity of administration throughout the kingdom; by his declaration that a royal inheritance is impartible; by his omission to provide princes, other than the heir-apparent, with

such offices or places of influence in the state as Sukra would provide them with ; and by his express statement that where Sovereign authority is the property of a *Sangha* or *Kula*, i.e., a corporation or a clan of kinsmen,—as among the Bacchiads in ancient Corinth—it was to be exercised by *them together*, and through the head of the corporation (*Sangha-mukhya*). That divided rule was then dreaded generally may, perhaps, be also inferred by the inclusion of states ruled by two rulers co-ordinately, (दोरायाणि) and states ruled by the whole community (गणरायाणि), among those which the canonical *Acharanga Sutta* (II., iii. 1, 10) asks Jain ascetics to avoid. That lack of union, leading to lack of unity, was an ever-present menace in the constitution of tribal republics, in the pre-Mauryan days, would also be made clear by the famous words attributed to the Buddha (in that idyl of his last days, the Sutra of the Great Renunciation) in regard to the Vajjian confederacy:—‘ So long, Ananda, as the Vajjians hold full and frequent assemblies, so long they may be expected not to decline, but to prosper. So long as the Vajjians meet together in concord, and carry out their undertakings in concord,—so long as they enact nothing not already established, abrogate nothing that has already been enacted, and act in accordance with the ancient institutions of the Vajjians as established in former days—so long as they honour, and esteem and support the Vajjian *Elders*, and hold it a point of duty to hearken to their words—so long may the Vajjians be expected not to decline but to prosper’. (S.B.E., XI., pp. 3-6.)

The conditions of later times should have somewhat reduced, in practice, the importance of one of the essentials according to their definition of the State. In the epochs of wide popular and tribal movement re-

presented in the Vedic and Epic periods it was of course not to be expected that the *territorial* aspect of the State should be grasped, or stressed, even if understood. Even in the days of Kautilya, Powers are referred to by the names of peoples and not by geographical limits. It is perhaps intentional that Kautilya refers to his Prince as 'king of men', though it is now hard to say whether it implies an aspiration after universal dominion that transcended the limits of the old kingdom—an ambition realized even in Chandragupta's own life, when he ruled from the hills of Assam to the Paropanisus—or unwillingness (as a learned Sanskrit scholar tells me) to use the term *Raja*, which should be reserved for *Kshattriyas*, to the *Sudra* dynasties that ruled in Magadha after the accession of the Nandas. It is, however, clear that in the epochs that followed the disruption of the Mauryan empire, when invasions and immigrations from outside followed one another in an unending procession, frequent unsettlement of the population and of political boundaries became inevitable, and the State had to be thought of independently of a *fixed* territory. Such conditions persisted till so late as the ninth century A. D.—the date of the rise of the Gurjara empire. Hence the statement that a definite territory constituted an essential feature of the State, as an institution, has to be taken in the light of our history, more as an often-realized ideal than as a permanent characteristic of all ancient Indian States.

To writers on *Dharmasastra*, the conception of the State as a natural and necessary institution was bound up with the belief in the entire system of the Universe being divinely ordained. Consequently, they do not go beyond suggesting a justification for Government, in the assumption of the need for an institution of correction (*Danda*) to restrain the natural turbulence and

depravity of men, leading them to violate the regulations of the different castes and orders of life (*Varnasrama dharma*), and of the divine creation of such a power of chastisement or *Danda*. This theory was enforced by vague references to *Sruti* (i.e. the Vedas)—which, of course, knows the State, and by the recital of the stories of the *divine* creation of Sovereignty after a non-political stage of lawlessness and confusion, and of the compact into which men entered with Manu, the first King, pledging themselves to serve him and support him by their contributions, in return for his protection. These stories which are to be found in the *Santiparva* of the *Mahabharata* are repeated, in one form or the other by the *Manusmriti* (VII. 3), the *Sukranitisara*, (i. 125-40), and even by the *Arthasastra* of Kautilya (pp. 22-23). The last reference is interesting as it is the earliest to which, in the light of our present knowledge, we can assign an approximately definite date, besides being also *earlier* than the philosophy of Epicurus and his School, in which modern writers have *hitherto* seen the first inkling of the idea of the origin of the State in compact. It is undoubtedly of interest to know that a theory like this, sanctifying not merely the State and the institution of Kingship, but also the reciprocal duties of the Sovereign and the subject should have been accepted by the leading political writer and renowned statesman of the fourth century B.C. In view of this, a literal meaning and almost a constitutional significance will perhaps have to be assigned to the frequent declarations of the pious Asoka reiterating his heavy responsibilities, as an emperor, towards all living beings.

In this conception of the need for Government, we may discover the explanation for the declarations exalting the office and power of the king, for the general horror of anarchy (*Arajata*) and interregnums, the

acceptance of heredity and primogeniture in the rules for the succession to the crown, and the suggestion that the throne should be filled on its vacancy, *somehow*, even if the accepted order of succession has to be set aside, as, in the stories in the *Jataka* about discovering rulers by the device of the festal car, and in the statement in the *Ramayana*,—that the people of Ayodhya petitioned for *some one* on the throne, on the demise of King Dasaratha, rather than allow a vacancy to continue. It is under this head that we must bring such scattered rules as the ancient one, referred to by Apastamba (fifth century B.C.), that a vacancy in the throne interrupted Vedic studies throughout the kingdom, the dictum of Vasishta (earlier than 200 B.C.) that no action on debts could be taken and no interest allowed thereon, during the interval between the demise of a ruler and the enthronement of his successor (perhaps, because no such claim could be enforced judicially), and the pointed statement of Kautilya (fourth century B.C.) that a prescriptive right arising from the forcible dispossession of a property-holder, during an interregnum, will *not* be allowed to be pleaded as conferring a valid title, after order is restored, on the accession of a new ruler. And, we may also quote in this connection the picturesque declarations of *Sukranitisara* that “as the wife of Indra is never a widow (because the office of Indra is never vacant and she is attached to the office), so, even unrighteous people (who may not want a Government) cannot survive even for a moment without a king” (i. 187-8), and of Somadeva that ‘as the subjects find their roots in their sovereign, what can human ingenuity and effort do for a tree that has no roots?’ (p. 62).

In regard to the aims of our ancient polity, the functions of Government, as conceived both by rulers, and by the political theorists and legists who were (to



borrow Maitland's words in describing the similar writers of mediaeval Europe), 'clothing concrete projects in abstract vesture, (and) who fashioned the facts as well as the theories of the time,'—we have testimony of an abundant and varied kind. The *Arthasastras* give lists of State-departments and the kinds of work that it was good for the State to undertake or to abstain from. The writers on *Dharmasastras* similarly give clear indications of the acts and forbearances which were legitimate in sovereign and subject. Even such *formal public* documents as inscriptions *may* be read so as to convey some notion of the ideals for which their 'authors' desired to get credit and, besides this, they often give information regarding departments of Governmental organization and activity. The works of poets, and religious and ethical writers too, may be made to yield the contemporary opinion regarding what was allowable, or not, for a Government, or for a subject.

From evidence of these kinds, the first conclusion we may draw is the unanimity with which every one preaches the high regal duty of righteousness and devotion to the welfare of the people. For example, we have, to begin with, the authority of the *Mahabharata* for the old sentiment that a ruler entrenched behind the impregnable fortress of his people's love is unconquerable (Rajadharama Section—ed. Ray, p. 707). We next have Kautilya's advocacy of the high ideal that the king should seek his happiness in the happiness of his people and not in the satisfaction of his own inclinations (p. 39.),

प्रजासुखे हितं राज्ञः प्रजानां च हिते हितं ।

न आत्मप्रियं हितं राज्ञः प्रजानां तु प्रियं हितम् ॥

We have his advice too, that a king should regard promptitude in action as his religious vow, perfor-

mance of the people's work as his sacrifice (यज्ञ), and impartiality in decision as having the same merit and efficacy as the lustral bath and the largess at the end of great sacrifices (p. 39). After these pronouncements of the *admitted* aims of the State, which may be quoted in any number,—aims which for instance, breathe in every word of the famous personal appeals of the great Asoka to his subjects,—it is hardly necessary to refer to such edifying sentiments as those to be found in Kalidasa,—Dushyanta's acceptance of the King's obligation to protect the weak, the widow and the orphan, and to be a father to the fatherless,

येनयेन त्रियुज्यन्ते प्रजाः स्निग्धेन बन्धुना ।

स स पापादृते तासां दुष्यन्त इति घुष्यतां ॥

..Dilipa's taking taxes only for use in the people's interests, प्रजानामेव भूयर्थं सतेभ्यो बलिमगृहीत्, and Kalidasa's own prayer at the end of *Sakuntala*, that kings might ever strive for the good of the people, प्रवर्ततां प्रकृतिं हिताय पार्थिवः.

The second conclusion, in regard to the end of the State, that we shall draw from the evidence is the almost universal acceptance, *as an ideal*, of the nearly allied conception of the State's duty to maintain *Dharma*, especially those parts of it, which are known as *sadharana* and *varnasramadharma*. The sacerdotal conception of the origin of the State, and the early rise of the priesthood in the history of our country, the very early division of the people by *varnas* (caste), all combined to raise this maintenance of *Dharma* to the rank of one of the first duties of the State. This vivid recognition of the responsibility of a State for the upkeep of the moral and

social order—which itself is believed to be based on the sanction or the mandate of the religion which the State follows, is not confined to Ancient India in the world's history. The Christianized Empire of New Rome, not to speak of the Khalifate, may be cited as an example, even if the mixture of principles and interests involved therein make the citing of almost similar instances from mediaeval and modern European history somewhat unilluminating. But the ancient Indian conception has attracted more conspicuous attention than these cases, because of the survival—through the apparent support of the State,—of the institution of Caste, to the maintenance of which the State's aid was invoked. It was characteristic of India that the alternations in the fortunes of Brahmanism and Buddhism had no power to modify this attitude of the State towards *Dharma*, since both religions *equally* desired the State's aid in the upkeep of the 'moral' order, as they respectively conceived it.

This obligation of the State to maintain *Dharma* has been urged, not only by writers with transparent sacerdotal inclinations like the author of the *Manusmriti*, but even by those, who, like Kautilya, viewed politics from a secular standpoint. The agreement of the two classes of our authorities may be inferred from a comparison of the following with the numerous statements of the same kind in *Manu* and the *Dharmasatras* :—

'The king shall never allow people to swerve from their appointed duties (*Dharma*): for whoever *upholds* his own duty, adheres to the usages of the Aryas, and follows the duties of the castes and orders (*varnasramadharma*) will attain happiness in this world as well as in the next' (Kautilya p. 9).

Among kings who ignore this duty, Kautilya condemns more the ruler who knowing his duty neglects it than he who does so by ignorance—though even such ignorance

is very culpable, and leads to the destruction of the kingdom (चलितशास्त्रस्तु शास्त्रादन्यथा अभिनिविष्टबुद्धिः अन्यायेन राज्यमात्मनं च उपहन्ति) (p. 324).

It is not easy to decide whether the acceptance of such views by Kautilya is the result of his inability to rise above the prepossessions inherited by him and imbibed from his training in the Brahmanic schools, or it reflects merely the practice of the fourth century B.C. The descriptions of the influence of the Brahmanas and Sramanas in the Pataliputra of his day, that we have in the fragments of Megasthenes, would appear to confirm the second of these inferences. These 'philosophers' are stated to have lived on the outskirts of the city, and to have been frequently visited by kings and administrators, in search of their advice in matters relating to government. It is also on record that Alexander himself found it worth his while to pay a visit to a person of this type during his brief stay in the Panjab. The need for such consultations, as those referred to, would be apparent if one postulates that it was an admitted duty of the *State* to maintain *Dharma*, since the question would frequently rise as to what was or was not consistent with *Dharma*. The determination of such points would not be simple, or within the province of mere secular administrators. For, *Dharma* was of many kinds, was constantly growing, and was never very definite. It could be, for example, *Sadharana Dharma*, i.e. ordinary equity and morality, of the kind instanced in the following quotations from Vasishta (anterior to 200 B.C.) and Vishnu (c.A.D. 100) :— 'Truthfulness, freedom from anger, liberality, abstention from injuring living beings, and the lawful perpetuation of the family are the *Dharma* common to all' (Vasishta iv. 4); and, 'Forbearance, truth, self-restraint, purity, liberality, non-injury to life, obedience to spiritual guides,

pilgrimages to holy places, pity for the afflicted, straight-dealing, freedom from avarice, reverence towards gods and Brahmans,—these are the *Dharma* common to all classes' (*Vishnu*, ii. 16-17). Or again, *Dharma* might be *Asadharana*, i.e. of a special character. In this class would be included *Varna Dharma* (obligations of castes), *Asrama Dharma* (regulations of the orders or stages of life), *Varnasrama Dharma* (rules about both castes and orders and their interrelations), *Guna Dharma* and *Naimittika Dharma*. Or again, a cross classification of *Dharma* would give as its constituents, *Acharya Dharma* (valid usage), *Vyavahara Dharma* (rules about affairs) and *Prayaschitta Dharma* (rules of penance). Except ordinarily in regard to *Sadharana Dharma*, (for even in it, there would arise difficult questions, as the tendency would ever be to put in as *common* obligations the duties of particular sections or classes), the constituents of the other types of *Dharma* would offer nice points for academic elaboration and differentiation. Should a State, therefore, undertake to maintain *Dharma*, it would have frequently to obtain opinions that would be deemed authoritative in cases in which points of *Dharma* were at issue. How would such opinions be obtained? Who was competent to give them?

The answer to these questions is *suggested* by a third duty which is imposed by all our writers on the State. This is the obligation to maintain and *accept as valid* every local usage, every custom of a caste, tribe, clan, and family, every by-law or usage of corporations, guilds and organized non-political communities or fraternities, as was not inconsistent with the State's own mandates or interests. This is expressly stated by Kautilya (p. 165). Applying for convenience the general term 'innocent usage' to this extensive group of customs, usage, and by-laws represented in the above

description, we may say that the texts are uniformly in favour of all such innocent usage being accepted.

That this concession (*admitted* in the canon) must represent one *actually* made would be evident, if we pause to recollect for a moment, that the grant of such a liberty was somewhat inconsistent, and therefore repugnant, to the claims to *completeness* and universality put forward by the *Dharmasastras*—especially by such of them as claimed divine inspiration.

The famous edicts of the great Asoka—in which the officers are warned that the king, even in his devotion for the propagation of the law of *Dharma*, is not prepared to proceed to extremities with the forest and border tribes of his vast empire, that he only desires them to be assured of his sympathy and that he wants the law of *Dharma* to be accepted by them, voluntarily, after conviction of its worth—would likewise seem to be animated by this same spirit of tolerance to local usage or prejudices. And, in these pointed prohibitions of Asoka one may perhaps be permitted to discover also the statesman-like desire to curb the zeal of a great bureaucracy to bring about uniformity in practices throughout an empire.

A third testimony to the actual acceptance of such innocent usage is to be found in the large body of it, which was known to later writers of *digests*, commentaries and compendia of Hindu law—such as the *Smritichandrika* of Devanna Bhatta (thirteenth century A.D.). How a king with 'Aryan' views was advised to accept as valid usage even practices repugnant to his own sense of the fitting would be evident from the following passages from *Sukranitisara*:—

'Those customs which have been introduced in the country, caste or race, should be maintained in the same condition, for, otherwise, people get agitated.

'In the southern countries maternal uncle's daughters are taken in marriage by Brahmans.

'In the central country, the artisans and artists are eaters of cow's flesh, the men are all flesh-eaters, and women are accustomed to promiscuous intercourse.

'In the north, women drink wine, and are approachable at all times.

'In the Khasa country, men marry their brother's widows.

'These people do not deserve penance or punishment for the practice of these customs' (iv, v, 92-9).

Lastly, it is important to note in this connection, that Kautilya, Manu and Sukra, all agree, in commending to a conqueror the maintenance of the laws and the customs of the conquered State—following logically their approval of innocent usage within a kingdom itself; and that Kautilya would even allow to foreign traders the right to be adjudged by their own law, especially in business matters.

The review of the State's duty to maintain *Dharma* and local usage leads naturally to the consideration of the fourth and fifth functions of our ancient polity—viz. the administration of justice, and the promulgation of laws. It is in regard to these that some of the hostile views about the primitiveness or inorganic character of our ancient State have been most urged, and it would, therefore, be necessary to devote some attention to them.

The first conclusion in regard to the administration of justice is that all the evidence, at our disposal, is unanimous in showing the existence in ancient India of a fairly extensive judicial machinery. Reference has already been made to the classification of courts of justice by Kautilya into *Dharmasthiya* and *Kantaka-sodhana* courts (p. 147 and p. 228), to the definition of their province, and to the rule that they were to be presided over by three *Amatyas* (officers) each—so as apparently

to enable a majority's decision to be given, in cases where the judges were not unanimous. The number of such courts is not specified, but apparently there were to be as many as there was need for. The distinctive feature of judicial administration in Kautilya's description or scheme, as compared with those that we find in earlier and later Smritis—which refer to conditions of more primitive or to decadent times respectively preceding and following the period of Mauryan rule,—is that these judges are *special* officers though, perhaps, not *specialists*, as Kautilya in another part of his work recommends the transfer of officers from one department to another in the State. Neither is the judicial work thrown by Kautilya upon the king, as described in earlier authorities, nor is it delegated to his spiritual adviser—the chief Brahman—the Pradviveka of earlier and the Dharmadhikari of later times. Nor, in spite of the elaborate magnification of the king's position and person, the seclusion of the king, and the proofs of the splendour and complication of the court ceremonial, do we find pure *court officers* like the *Chamberlains* taking part in such judicial work, as appears to have been the case, later on, in the fourth and fifth centuries A.D.,—if we may accept the reference in *Kalidasa* and *Sukranitisara* as evidence for the actual conditions of their times. Besides these courts, the *Arthasastra* mentions the vesting of powers of control and punishment—i.e., magisterial powers, in heads of provinces, districts, revenue circles and villages, as well as in the officers of the capital, which (from the duplication of the *grades* of provincial officers from top to bottom in the city-executive) appears (like London) to have been treated as the equal of a province. The range of the topics that might come up before the *Dharmasthiya* and *Kantakasodhana* courts is indicated by the long lists of offences and the penalties therefor, that we find scattered throughout the



body of the *Arthasastra*—offences whose presence in the criminal law of the time would induce a somewhat cautious acceptance of the enthusiastic descriptions of Megasthenes of the absence of crime in Magadha in his time. This may suffice as a sample, and it would now be needless to picture the kind of judicial machinery described by Sukra, or by Manu or by those who wrote in still later epochs. Their testimony would only confirm the view of the existence *always* of well-developed courts of law, in at least the larger states of ancient India, with well-defined rules of procedure.

The judicial work of the time, however, should have pressed less heavily on the higher courts than it does nowadays. Omitting other causes due to the different material and moral conditions of those days and our times, one prominent reason for this may be seen in the very large proportion of such disputes, then settled outside these courts. Thus, according to Kautilya, all disputes (he is speaking generally though his context is about boundary disputes), are to be decided by or on the evidence of the leading men of the locality (सर्व एव विवादा सामन्तप्रत्ययाः). Again, there were many rules to prevent unnecessary litigation. Thus, in regard to sales and rights over lands, he rules that all such sales should take place publicly, in the presence of the leading men of the villages in which the lands lie (p. 168). The scope of disputes over landsales is still further limited by the provisions—intended to secure land records against confusion, and the State against loss of revenue entailed by land of an escheatable nature passing into the hands of Brahmans, whose property would not escheat to the crown—that tax-payers should sell their immovable property only to tax-payers, and the holders of *brahmadeya* (tax-free) lands

only to those who already possess such immunities (p. 171), and that the entry as proprietors of those, who do not pay taxes, into tax-paying villages should be punished as an offence deserving of the highest amercement (p. 171). We have further such *detailed* rules as that the *valid* rates of interest and loan-mortgages should be 15 and  $12\frac{1}{2}$  per cent per annum (p. 174), that the period of limitation on debts should be ten years (p. 174), that no action at law would lie in the courts in regard to transactions between husband and wife, and parents and children (p. 175), that slavery should be restricted to barbarians (p. 181), that in trade dealings days of grace should be allowed to traders for payments to be made by them (p. 187), and that ten years of prescription would ripen possession into ownership, unless the possessor has been holding the property of children, the aged or afflicted, or the diseased, or of a deserted wife, of an exile or of a wanderer in foreign countries (p. 190). The samples of the detailed rules of *civil* law just given, along with the elaborate *definitions* and classifications of offences which the State would punish and the scale of penalties therefor—will also indicate that the rules are those *actually* enforced in Kautilya's time. As, from their form as *general* 'commands' and their nature, they could not be based on local usage or custom, and, as in regard to their form, number and relative position they vary (as a body) from similar rules that may be gleaned from other parts of our ancient history, it is inferable that the rules in the *Arthashastra*, in regard to these matters, should be those *actually* enforced in his days. This inference that we have in Kautilya's work the fragments of a *code*—perhaps one of Chandragupta Maurya's,—is strengthened by other circumstances. Thus, we have to note the unhesitating manner in which Kautilya enunciates these rules. He does not quote, as is his practice,

any views opposed to these rules. Nor does he, as he often does, justify the principles underlying these rules. It appears reasonable to assume that, for some reason, he did not consider them worth arguing—though, as a sagacious thinker, he must have considered them as much worth thinking about as we now should. And, is it then too great a stretch of inference to conclude that the reason why he did not argue out the rules was that they were the actual law of the land, accepted or promulgated by the State, and enforced by its courts?

The instances that have been quoted will show the extent of the work of the Courts of Justice, and the presence of a legislative side to the functions of ancient Indian Government.

In regard to the former, the limitation of range was due to a considerable portion of cases—such as village disputes and differences between members of corporate organization (guilds)—being expressly allotted to the bodies concerned for disposal. Such unequivocal rules as the one in *Sukranitisara* (IV. v, 44-5) directing foresters to be tried by foresters, merchants to be tried by merchants, soldiers by soldiers, and village affairs by village heads, must have had the effect of reducing the volume of work for the higher courts. The prevalence of corporate organizations in ancient India, in a much greater degree than at the present day, appears to be indicated by many references in our ancient literature, besides those in Megasthenes. To that extent therefore, the work of village courts and guilds would be greater, and of the king's courts less, than we ordinarily should imagine. The substantial recognition of the work of such organizations in the ancient State is also implied in such rules as those of Kautilya making an assault on a 'village elder' (*mahajana*) a specially heinous offence, and classifying the

heads of guilds (*sreni*) along with generals of cavalry and infantry among the officers of the State, receiving an annual salary of 8,000 *panas*.

In regard to legislation forming a function of the ancient Indian State—or King—some further consideration of the position upheld is necessary, in deference to the volume of opinion against it. There are many who believe, with Maine, that an ancient Indian ruler never in his life issued a single *general* command of the nature of a *law*, truly so called, and that the rules in our *Dharmasastras* refer to aspirations and not to actualities. Such a view appears to be strengthened by a well-known statement, ascribed by Strabo to Megasthenes, (XV. i 53-6) which, as translated by McCrindle, runs thus:—

‘Those who were in the camp of Sandrakottos, wherein lay 400,000 men, found that the thefts reported on any one day did not exceed the value of 200 drachmae, and this among a people *who have no written laws*, but are ignorant of writing and must therefore in all the business of life trust to memory.’

This opinion has also received support in the confusion created by the different meanings of the word *Dharma* which, according to the context, may signify such different things as law proper, virtue, religion, duty, piety, justice, and innate property or quality. Especially has the confusion between *Dharma* in its general or *inclusive* sense and its sense as law proper proved very misleading. When we mention that the ancient State was exhorted to maintain *Dharma*, the real implication is that it was called on to maintain *Dharma*, in this sense; and the sources of *Dharma*, that we find, in our *Dharmasastras*, should also refer to *Dharma* in this comprehensive sense. But seeing that the enunciation of the *Dharma* in the non-legal sense was the function of the Brahmins, as the custodians of the Veda, it has been assumed that the

enunciation of actual law also was the function of the Brahmins, to whom thus was ascribed either an exclusive right of declaring what should be the law, or a co-ordinate power of doing so with the king. It is not possible to discuss this difficult question further, in the course of this lecture. It must suffice to say that Megasthenes is manifestly in the wrong about many matters, including his statement about the absence of writing; that 'written law' to him, as to any Greek, would be law as promulgated in tablets and exhibited in the market place or preserved in a place where it could be examined, as the Laws of Solon were—till the time, when, as the comedian quoted by Plutarch puts it, the wooden rollers on which they were engraved were used to *parch* peas; and that it was natural for one like Megasthenes, in the absence of such *tangible* proofs of the existence of laws, to assume that they existed only as custom, especially when he saw the references often made to the Brahmins by the administrators, in the course of their administering *Dharma* in its wider sense. If further support were needed, we may point to the detailed rules of the *Arthashastra*, and of the edicts of Asoka in proof of this kind of legislative work. Taking law to consist in a general command enforced by the State and its courts, we may ask whether it is conceivable that, in an epoch when definiteness and accuracy were passionately desired in the most trifling matters of detail, a function of so much importance as the making of laws would be left to an irresponsible and unorganized body of people in the State? Have we not also in the Jatakas frequent references to the reversal, on appeal, of sentences pronounced by courts, besides the specific mention of a *book of judgments* by which, in the absence of a rule of law, a case was decided? (Jataka, III., 183) And, if the State promulgates no laws, what is the point of such statements

as that of Kautilya that the judge who gives a *wrong* decision should be punished, or the equitable *modification* of law that Kalidasa makes his Dushyanta *proclaim* (बुध्यतां) as his law, or the following statements of *Sukra-nitisara*: 'The following laws are promulgated by the king among his subjects' (i. 587).

'The king should say,—"I will surely destroy by severe punishments those who after hearing *these*, my commands, would act contrary to them"' (I, 623-4). 'The king should always inform the subjects of those laws drawn by the *State* and also *place* them in the highway as *written notices*.'<sup>1</sup>

It of course follows from the nature of the ordinary type of Indian kingship—an autocracy—that, constitutionally the king was in a position to accept or repudiate the laws accepted by his predecessor. But he ordinarily accepted them, as the ancient Roman praetor in the Republic accepted his predecessor's edicts; and, in course of time, there grew up in India, as in Rome, a more or less permanent body of laws—like the *edictum perpetuum* at Rome. No one denies either the legal capacity of the Roman praetor to change the law or to modify it in his edict, or the existence of a definite body of law at Rome which the praetor, and the other magistrates enforced. And yet, under analogous conditions, largely through the causes to which reference has already been made, the law-making side of the ancient Indian State, and even the very existence of a body of express State-authorized law has been emphatically denied.

A few words more have to be said in regard to the relation of the king to the law, and of the Brahmans to

<sup>1</sup> The rules referred to are not merely moral rules but also rules regarding civil action.

both. In regard to the first, we very often see in our ancient literature—and in our modern too—such apparently contradictory statements as ‘the king is above the law,’ and ‘the law is the king of kings.’ In the first, i.e. ancient literature, there is no real conflict of view, as the word used for law in both cases is *Dharma*, but it is used in its limited and its wider sense respectively. The two senses of *Dharma* were closely related to each other in ancient India, since on account of the State’s acceptance of its responsibility to maintain *Dharma* in its wider sense, all its legislative activity had to be guided and controlled by the existence of *Dharma* as an *ideal*. To the constant presence of this conception as a great ideal to live up to, we doubtless largely owe the progress of Indian private law, and the bounds within which, in practice, the theoretical autocracy of the ruler was restrained. What the conception of the Law of Nature has been to the development of Roman and modern European jural ideas, that the idea of *Dharma* (in its wider sense) has been in the evolution of Indian law and polity. The significance of the relations of *Dharma* and kingship are well-brought out in the celebrated passage of the *Bṛihadarayanaka-Upaniṣad* (i, 4, 11–14), which has been so often *wrongly* quoted as a noble definition of *civil* law, while in reality it merely refers to a great political and legal ideal, the realisation of which the Indian State had accepted as its goal :

‘Brahma (the supreme being) created the most excellent *Dharma*. *Dharma* is the king of kings (Kṣhatrasya Kṣhatram). Therefore, there is nothing higher than *Dharma*. Thenceforth, even a weak man rules with the help of *Dharma* as with the help of a king. Thus *Dharma* is what is called the True. And, if a man declares what is true, they say he declares *Dharma*; and if he

declares *Dharma*, they say he declares what is true. Both are the same.'

The point of this passage, once the word *Dharma* is retained untranslated, will be seen to consist not in the identification of truth and civil law, but in the identification of truth with a higher law, i.e. *Dharma*, and in the statement that this higher law (*Dharma*) stands even above an autocrat. The idea is the same as contained in the celebrated words of Pindar—'Law the king of All, both mortals and immortals.'

In regard to the position of the Brahmans towards the law and the king—with which we may end our consideration of the relations of the ancient Indian State to law—the analogy (suggested earlier in the lecture) between the State's recognition of innocent usage and its acceptance of the duty of maintaining *Dharma*, may help to make the position clear. As, in the case of caste usage or local usage, the opinion of the caste-brethren or the neighbours judicially prevailed, so in matters affecting *Dharma*, whose source was ultimately sought in the Veda, i.e. Revelation, those who studied the Veda as a class, the *Srotriyas* were the expounders followed by the courts. And, where the opinions of the Brahmanical schools were already crystallized in regard to *Dharma*, they entered into the *Dharmasastras*, and, as such, these works also acquired authority as interpreters of *Dharma*. The significance of getting Brahmans to preside over courts of law—the rule that no court was complete which had not at least three Brahmans in it as judges or assessors—lay in providing a body to which questions involving *Dharma* may then and there be referred for settlement. The function of the Brahman in these cases was only that of *expounder* and not legislator. The king was the legislator, and if he chose to defy and outrage his people's beliefs by doing so, it was still constitutionally open to him to do so, by



disregarding *Dharma*, and by even enacting laws against its accepted canons. The courts were *his* courts, and the judges *his* nominees. And, in the earlier ages, while the determination of the facts, the law and the verdict might rest on others in the courts, the king alone, as judge, could pronounce the sentence (Cf. Dushyanta's case in *Sakuntala*). He could also legislate at will, and often did so, though the composition of his ministry, the moral standards of his subjects, and the power of the Brahmans as a class, made it hazardous even for such autocrats, as the ancient Indian emperors, to legislate against the tendencies and beliefs of their times.

We have now to consider those remaining functions of the State, which in ancient India were generally deemed to be both just and lawful.

Among them the first place has to be given to the comprehensive duty of *Protection*—the function on which all writers lay most emphasis, as being of the very essence of the State. 'How can he be a *king*, who does not protect the subject? स किं राजा यो न रक्षति प्रजाः' asks Somadeva (p. 17). Protection surpasses all regal duties in importance and *religious merit*. 'The protection of the subjects is the king's sacrifice' (प्रजापरिपालनं हि राज्ञो यज्ञः p. 105), 'when the king protects his people in just ways, the skies beneficently shower all benefits', न्यायतो परिपालके राज्ञि प्रजानां कामदुष्वा दिशः, says Somadeva (p. 66), and his words will recall to our memory the similar utterances and beliefs in the *Jatakas*, the *Arthasastra*, in *Manusmriti* and in Kalidasa's plays and poems. The king receives his *sixth*, *shastamsam*—i.e. taxes—only in return for the protection he gives; and he receives not merely the sixth of the increase of land, but even a corresponding portion of the increase in spiritual merit among his people,

as the result of his protection, (परिपालको हि राजा सर्वेषां धर्माणां षष्टांशमाप्नोति, Somadeva, p. 18)—clear enunciations of the fee or service theory of taxation, which lies at the root of all reasoned schemes of ancient Indian Finance.

This duty of protection is comprehensive and extends not merely to the promulgation and enforcement of ordinary laws but also to the maintenance of *Dharma*, for the latter is as held to be necessary to save the State from unseen and supernatural dangers, as the former is needed to prevent the oppression of the weak by the strong. How closely the ideas were allied in practice will be evident, from the perusal of the elaborate rules and devices outlined by Kautilya to save the State from external aggression and internal tumult (provided against by the maintenance of adequate forces), confusion springing up from haziness regarding personal rights and duties (warded off by the definition and promulgation of laws), the want of competent authorities to redress injustice and award just relief to the oppressed (met by the establishment of tribunals and magistrates), and the protection of the State against dangers like famines (Kautilya, p. 206), fires and floods, mortality of cattle and epidemics among men as well as the insolvency of the State, growing out of an increasing poverty of the people, and the increase of unemployment, poverty, vagrancy, vice and crime.

It is, therefore, under this comprehensive head of Protection that we have to bring all the work of the ancient Indian State in the departments of what we should now call the Church, Education, Poor relief (Kautilya, p. 69), the Police, Criminal and Civil Justice, Legislation, Medical relief, Public works (Kautilya, p. 70), the Army and the Navy, and the consular and diplomatic service—for all of which, suitable provision is found in our works

on polity, as well as in the actual ancient Governments of our land, as one may judge thereof from the references in the inscriptions and in Kalhana's *Rajatarangini* to the existence of departments and officers for the discharge of these multifarious duties.

The operations of the State, as thus described, necessitated the maintenance of an elaborate fisc, and the evolution—in a complete scheme of Government such as we find described in Kautilya's *Arthasastra*—of many departments or offices for carrying out allied minor functions, like standardization (e. g. of weights and measures), registration, statistical enquiries and the census (for which elaborate rules are given by Kautilya), and sanitary measures. The functions, as thus conceived, naturally entailed heavy expenditure. At the same time such expenditure was somewhat larger than it would be at the present day, under similar heads, on account of the accepted religio-political justification therefor. And, as through the operation of the same mixture of religious and political motives in administration, large immunities from taxation were claimed and granted to Brahmans, to ascetics, to women, to religious corporations and sacred foundations as holders of property, and even to courtiers and influential public servants, as the right of escheat was restricted to non-brahmanical properties, and as last by the channels and rates of taxation were largely fixed, a condition of affairs emerged in which a progressive expenditure had to be constantly reconciled with an income that appeared to be largely inelastic. And, when we remember that the accepted political opinion of the times laid much store by the possession of great reserves or hoards in the treasury, writers like Sukra going so far as to recommend the saving of 18 per cent of the total and 50 per cent of the land revenue collections every year, (i, 631-5 and IV. vii,

47-52), and we remember also the heavy cost of the army, which was *paid in cash*, and accounted for over 52 per cent of the revenue, according to Sukra, we can realize how it became the principal object of concern to our old administrators and political theorists to discover ways and means by which a *full* treasury might always be maintained, *without direct violation* of the accepted canons of taxation and State duty.

It is on this account that our writers on Polity have to devote so large—and apparently disproportionate, a part of their works to the consideration or suggestion of such questionable means of adding to the State's revenue as some of those, which Kautilya describes with such welcome fulness of detail. It is mainly on this account that benevolences, and the fruits of trickery, as well as the existence of State-workshops, institutions for foreign and municipal trade maintained by the State for its own profit, the monopolies in the manufacture and sale of intoxicants, in precious stones and metals, in horses and elephants (referred to by Megasthenes), in salt, in the produce of mines and the forests, the institution of State brothels and gambling dens, and the complicated tariff of import and export duties were all equally acceptable to writers like Kautilya, who, likewise apparently reflecting the practice of their day, do not hesitate even to recommend them.

It is also on this ground that our writers on Polity insist, with wearisome iteration, on the king's duty to look *daily* into the balance sheet of his income and expenditure. This aspect of the matter has now to be urged with some vigour, as the undeniably onerous schemes of taxation—direct and indirect—pictured in the ancient law-books and works on Polity, have often been taken to confirm the popular view that an Indian State existed merely as a tax-gathering contrivance, and that the

collection of taxes was always to it an end in itself rather than the means to ends, and, the neglect to consider the bases of the financial schemes of writers like Kautilya, as also the omission to take due account of their constant obsession in favour of preserving—at any cost—the unity and independence of the State—has in our days subjected our *Nitikaras* to some of the odium, that has always been the portion of those who have been deemed the counsellors and the advocates of grasping and unscrupulous despotism. When the postulates on which the conclusions of Kautilya and other *Nitikaras* are read in relation to their conclusions, and when an attempt is made to judge them by the *whole body*, and not by fragments, of their teachings, a correcter and juster estimate of their position and value as sensible, practical-minded, far-seeing and even patriotic politicians would be arrived at, and, as in the case of Machiavelli, so, for them, time would ultimately recover lost reputation.

What was the general effect of the realization of these functions by the ancient Indian State? How are the relations of the State and the individual in ancient India best described, in the language of modern politics? These are questions that next demand some consideration. Not only is this study justified on the general ground that it is necessary for the historical student to know how a large part of the life of the people in the past was lived, but it is also pressed on us by the facility with which easy answers have been usually discovered to these questions.

To begin with, the mixture of politics and religion, which we find in our old polity, was less a *deliberate and exclusive* feature of it than one it had in common with ancient and medieval society generally. The inclusion of such functions, as the upkeep of *Dharma* in the formal aim of the State, was justified in the view of our ancient

politician, mainly because it helped government to be more *stable* in every sense, in the conditions of the time. The king was not a priest nor the expounder of sacred law, though his sanction was perhaps required as much for excommunications, as for adoptions of sons by childless people. And the Brahman class formed a privileged body, in some respects like the clergy in Medieval Europe, or to take a nearer example like the Nambudiri Brahmans a few decades back in Malabar. But the Brahmans, did not form a State within the State, because they had no *organization* fitting them to act *together* for common purposes, under acknowledged leaders. Thus, we arrive at the negative conclusion, that neither 'theocratic' nor 'sacerdotal' would be appropriate terms to describe our old polity by.

Again, the king was frequently exhorted to act like a father (*pitva*) to his subjects, and from this it has been assumed that *paternalism* would fittingly describe the relation of the ancient Indian State to its subjects. Paternalism implies not merely benevolence, but the tendency to regard the people as unable—if not unfit—to manage their own affairs. Was this the conception in ancient India? Was not individual responsibility—as signified in *Karma*—the note on the other hand of ancient Indian religion? And, *does* the recognition of custom and usage of a local, family, professional or a corporate kind, warrant our assuming that the State took the view that the subjects were only to be treated as children? The more this point is investigated the more apparent will it become that the *paternal attitude* of the State we hear of is only an expression in picturesque form of the wish that benevolence should characterize the relations of the State to the subject, and of the desire to bring home to those of the times the indissoluble nature of the ties uniting the subject and the State.

Such regulations as those concerning standards of life provision of employment for destitute but respectable women, the innumerable restrictions on the liberty of individual action that we read of in Kautilya, and the customs-rule that 'whatever causes harm or is useless to the country shall be shut out, and whatever is beneficial to the country, as well as seeds not available in the country, shall be encouraged to come in,' which may be quoted in support of the paternalistic view are equally explicable on other grounds.

Again, the restrictions on individual liberty were apparently very real, though not such as chafed the people, or obtruded prominently into notice, so long as the machine of government worked smoothly. The evidence of Fa Hian is clear on this point in regard at least to the best days of the Gupta empire (A.D. 411), and there is no ground to assume that the conditions were very different in the best days of earlier empires. But limitation of individual liberty does not by itself constitute paternalism, or socialism or collectivism, to use other descriptive expressions. The aim of the ancient Indian State was less to introduce an improved *social* order, than to act in conformity with the established *moral* order of the *Universe*. The State again felt no obligation, as a modern State does, to tax the rich to feed the poor, and to regard it as one of its duties to equalize burdens by taxation, and to equalize incomes or rewards through the State control of the production and the distribution of wealth.

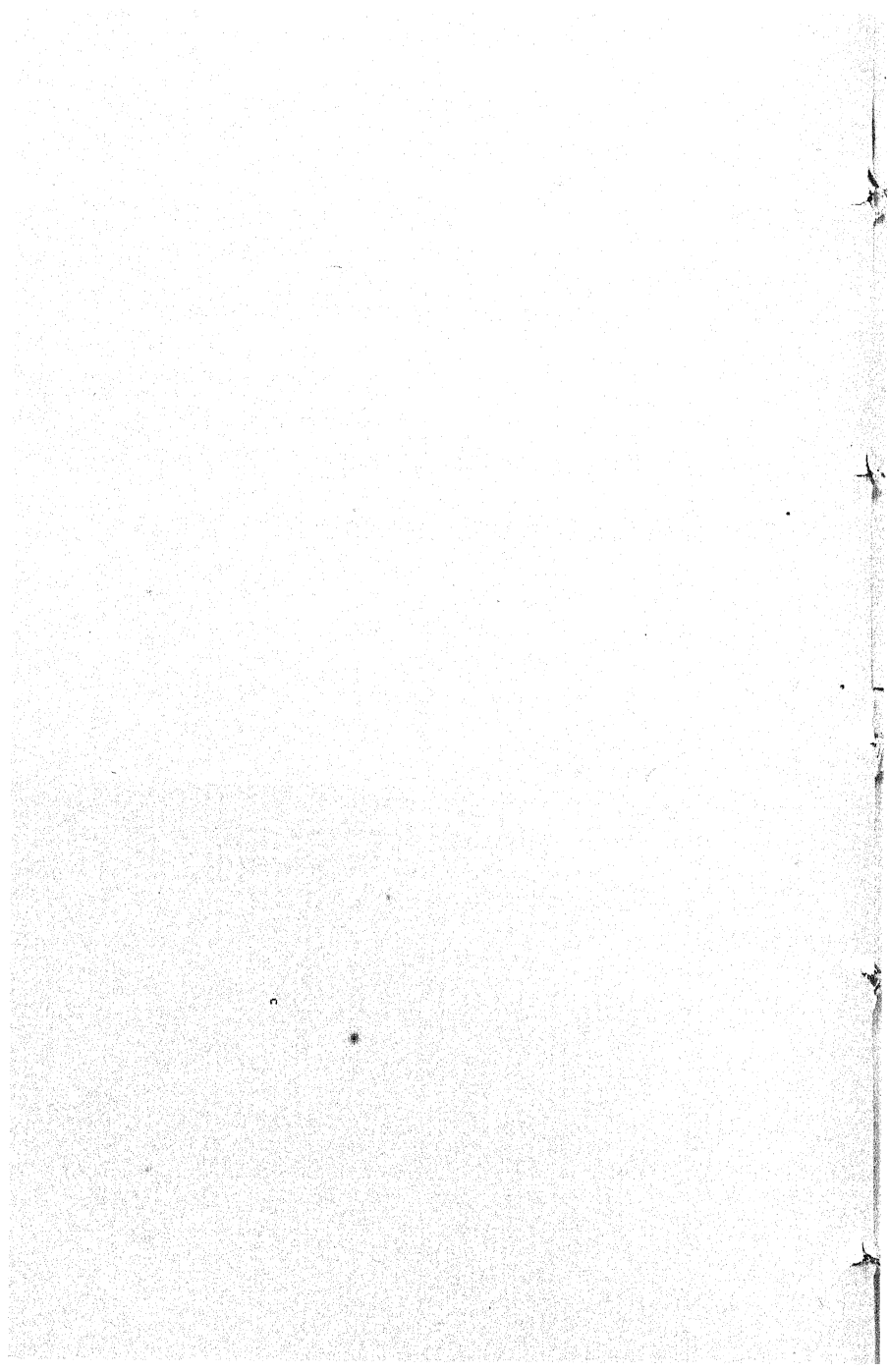
Further, the ancient Indian State very decidedly recognized the institution of *private* property and *individual* proprietary right over all forms of wealth, including land. Such an attitude is not socialistic or collectivist, though it may be opposed to individualism.

If, therefore, it is necessary to sum up, after these negative conclusions, the several aims and features of

our ancient polity, in a single word—we shall have to find an equivalent for the French word, *Etatisme*, so as to have it clear that the root principle of our ancient polity—was that every function of the State had to be conditioned by and to be subordinated to the need to preserve both Society and the State. This ideal of the State's function carries us in one sense to the best days of ancient Hellas, as in another it brings us to our own times, in which the trend of legislation has been to encroach on the liberty and the rights of the individual, in the name of and for the interests of the improvement of the State and Society. Is it of no interest to the student of Indian history to discover in the aims and features of ancient Indian polity the recognition of this identical conception?

I have come to the end of my task. As I mentioned at the outset, it has not been my intention to attempt, in this discourse, a general survey of the vast field of our polity, or even a study of all its most conspicuous or pleasing aspects. My aim has been humbler, and it would be realised if these lectures have succeeded in showing the numerous openings and prospects for reflection and research that are now offered by the historical study of ancient Indian polity.





# APPENDIX



# NOTES

PAGE 1, LINE 16

## **The Foundation**

On November 23, 1911, addressing the graduates admitted at the Convocation of the Senate of the University of Madras, the late Hon'ble Mr. V. Krishnaswami Aiyar, C.S.I., B.A., B.L., said :

'Is it too much to hope that the wealthy men of culture in the country may follow the example of the founders of the excellent lectureships attached to the Universities of England like those bearing the names of Halley and Romanes? I trust, I may be permitted by the authorities of the University to make a humble beginning in that direction by endowing a lectureship of the annual value of Rs. 250 in the honoured name of Sir S. Subrahmanya Aiyar, the only Indian on whom the University has conferred the degree of Doctor of Laws for eminent services to the country.'

The endowment was accepted by the Senate on March 1, 1912. The lectures now printed were delivered at the Hall of Pachaiyappa's College, on March 18 and 19, 1914.

PAGE 2, LINE 29

## **'Historical Study of English Law'**

See 'The Collected Works of F. W. Maitland' (ed. H. A. L. Fisher, 3 vols., 1911), Vol. I, pp. 480-97, ('Why the History of English Law is not written?'), and Vol. II, pp. 1-60 ('The Materials for English Legal History').

Maitland's monumental 'History of English Law before the time of Edward I', written in collaboration with Sir Frederick Pollock, appeared in 1895.

PAGE 3, LINE 13

**Some generalizations on ancient Indian Polity.**

Compare the instances given *infra* page 39.

Similarly, writing in 1894 on *Kingship in Ancient India*, Mr. Puranam Nagabhushanam, M.A., B.L., said:—

'Absolutism was *unknown* in India in early times. The king was never a despot in theory. Neither does he seem to have been one in practice' (p. 94, *Christian College Magazine*, 1894). 'A fairly *advanced* system of Government, regulated by some *constitutional* forms, prevailed in this country, between 2,000 and 2,700 years ago.' (*ibid.*, p. 99.)

Again, Mr. Abinas Chandra Das, has the following passages in his articles to the *Modern Review*:—

'A democratical form of Government had existed among the ancient Indo-Aryans, which had, however, in course of time, degenerated into anarchy.' (Vol. II, 1909, p. 38.) 'I should now like to put it to those who delight to proclaim from the house-tops, that the kings in ancient India were autocrats, whether the above account of the various councils of the ancient Indian kings does not clearly demonstrate the existence of a limited monarchy, established on a firm footing, and whether the people were not adequately represented in such councils?' (Vol. II, p. 350.) 'The secret of successful government in ancient India lay in the perfect confidence which the people had in their king and their ministers, the mutual trust in the good faith of one another, the identity of Government with popular interests, and the united effort of the king and the people to bring about the greatest good of the greatest number. . . The king existed for the people, not the people for the king. The latter sacrificed his interests on the altar of popular good. He never cherished even the remotest idea of having an official majority on his side in his

Council.' (Vol. III, p. 333.) 'The spirit of democracy pervaded all important concerns of ancient Indian life.' (*ibid.*, p. 339.)

PAGE 4, LINE 10

### **Oriental Stagnation**

For Mr. Balfour's opinion of oriental stagnation, compare the following passage from 'Decadence' (Sidgwick Memorial Lecture, Cambridge, 1908), pp. 34-39. :—'I am well aware,' says he, 'that though the space I have just devoted to the illustration of my theme provided by Roman History is out of all proportion to the general plan of this address, yet the treatment of it is inadequate and perhaps unconvincing. But those who are most reluctant to admit that decay, as distinguished from misfortune, may lower the general level of civilization, can hardly deny that in many cases that level may for indefinite periods show no tendency to rise. If decadence be unknown, is not progress expectational? Consider the changing politics of the unchanging east. Is it not true that there, while wars and revolutions, dynastic and religious, have shattered ancient states and brought new ones into being, every community, as soon as it has risen above the tribal and nomad condition, adopts with the rarest exceptions a form of Government which, from its very generality in eastern lands, we habitually call an "Oriental despotism"? We may crystallize and re-crystallize a soluble salt as often as we please, the new crystals will always resemble the old ones. The crystals, indeed, may be of different sizes, their component molecules may occupy different positions, within the crystalline structure, but the structure itself will be of one immutable pattern. So it is, or seems to be, with these oriental states. . . . No differences of race, of creed, or of language seem sufficient to vary the violent monotony of their internal history.'

Mr. Balfour adds a note to say that he does not include in the 'East' China and Japan, and that his observations have no reference to the Jews or to the commercial aristocracies of Phœnician origin.

**'Unchanging India'.**

See, for instance, Mr. Vincent Smith's observations on the effects of Alexander's invasion (*Early History of India*, third edition, 1914, pp. 112-3):—"India remained unchanged . . . . She continued to live her life of "splendid isolation". The paradox of Niese that the whole subsequent development of India was dependent upon Alexander's institutions is not, I think, true in any sense. . . . The often-quoted lines by Matthew Arnold (*Obermann*) are much more to the point:—

"The East bowed low before the blast  
In patient, deep disdain;  
She let the legions thunder past,  
And plunged in thought again."

Compare also the observations of the Founder of this Lectureship in his 'Address to the graduates admitted at the Convocation of the Senate of the University of Madras held on November 23, 1911'.

**Maine on Oriental Governments.**

The powerful influence of Sir Henry Maine (*Early History of Institutions*, Lecture XIII) popularised a view of oriental governments summarized and explained by T. H. Green (*Lectures on the Principles of Political Obligation*, pp. 99-101), in a classical passage. See *infra*, pp. 39-40.

Compare the observations of Sir Henry Maine, scattered through his writings, for instance those on pp. 27-8 of his *Ancient Law* (ed. Pollock, 1906).

'Of the incessant deluge of new and unsuspected matter, I need say little. . . . Every country has now in succession allowed the exploration of its records, and there is

more fear of drowning than of drought.' [Acton-*The Study of History*, (1896), pp. 38-9].

PAGE 5, LINE 14

### 'Nationalism and Historical Writing'

On the subject generally see G. P. Gooch-*History and Historians in the Nineteenth Century*' (1913), and particularly chapter V, dealing with the school of romantic nationalism, chapters VI and VII, Ranke, his pupils and critics (especially Giesbrecht), and chapter VIII dealing with the Prussian School. 'The systematic study of German history was the result of the fiery ordeal of the Napoleonic wars.' (Gooch, *ibid.*, p. 64.) 'Giesbrecht's imperialism and pride in his race helped to make his book the political and moral influence that he had desired. He declared that historiography always followed the great impulses of public life.' (*ibid.*, p. 126.) Sybel's great 'History of the French Revolution' was described by a Frenchman as "an attack not only on the Revolution but on the mind and history of France". (*ibid.* p. 142). The reason was that, as Sybel himself confessed, he was 'four-sevenths politician and three-sevenths professor'. (*ibid.*, p. 144.) Treitschke represents the apotheosis of aggressive nationalism in the writing of History. (*ibid.*, pp. 147-55).

The fortunes of the German Historical Schools should prove both an inspiration and a warning to our own historical students.

PAGE 5, LINE 22

See his Inaugural Lecture as Regius Professor of Modern History (Cambridge, 1903).

PAGE 5, LINE 24

### 'Tagore Law Professorship'

The Hon'ble Prosunno Coomar Tagore, C.S.I. (1801 to 1868), the Translator of *Vivadachintamani*, made a will, by which he bequeathed to the University of Calcutta a monthly



allowance of Rs. 1,000 for the purpose of founding a University Law Professorship. The lectureship was first filled in 1870, and since then a number of eminent scholars have adorned the chair and made valuable and permanent contributions to Indian Law.

PAGE 5, LINE 27

### ‘Dharma-Sastra Literature’

On the available literature of *Dharma Sastra*, see the bibliographies in J. Jolly's *Recht und Sitte* (Bühler's *Encyclopædia of Indo-Aryan Research*), Strassburg, 1896; also see Sir Raymond West and G. Bühler's *Digest of Hindu Law*, 1867 to 1869, *Introduction*, J. C. Ghose's *Hindu Law*, 1903, and J. Jolly's *History of Hindu Law* (Tagore Lectures, 1883), Calcutta, 1885. The principal events in the history of Hindu Law, since 1896, have been the publication of Apararka's Commentary on *Yajñavalkya-Smṛiti* (2 vols., 1903-4, Anandasrama, Poona), the publication of part of Viswarupa's commentary on *Yajñavalkya*, by Mr. S. S. Setlur, B.A. LL.B., (1912, Madras), and the discovery of Jimutavahana's *Vyavahara-Mātrika*, by Sir Asutosh Mukhopadhyaya (1912). A complete copy of Viswarupa's commentary, on which the famous *Mitākshara* of Vijnanashwara is based, has been discovered by Pandit T. Ganapati Sastri of Trivandrum, and it will soon be published by that zealous scholar.

PAGE 6, LINE 2

### Brahman and Buddhist.

See the attacks on the ‘Brahmanical’ or ‘Sanskritist’ points of view in Prof. T. W. Rhys Davids' *Buddhist India*, (1902) and especially the bitter paragraphs in the Preface (pp. iii-v) of that work; see also, Prof. E. J. Rapson's paper ‘In what degree was Sanskrit a spoken language?’ (*Journal of the Royal Asiatic Society*, 1904, pp. 435-56), and the observations thereon of Prof. Rhys Davids, Dr. G. A. Grierson and Dr. J. F. Fleet (*ibid.*, pp. 457-87).

## PAGE 6, LINE 21.

**Kamandaka**

The reference is to *The Elements of Polity* by Kaman-daka, edited by Dr. Rajendra Lal Mitra, in *Bibliotheca Indica*. Dr. Mitra was assisted by Jagan Mohan Tarkalan-kara, and the work was completed in 1884. A scholarly edition of Kamandaka's work, with the commentary, *Jaya-mangala*, of Sankararya was published in 1912 by Pandit T. Ganapati Sastri, in the Trivandrum Sanskrit Series.

## PAGE 6, LINES 23-6

**Vaisampayana's Nitiprakasika.**

For Dr. Oppert's identification of this Vaisampayana with the epic Vaisampayana, the pupil of Vyasa, see his Introduction, pp. 1-2. The work contains eight chapters and claims to have been recited by Vaisampayana to King Janamejaya, at Takshasila. It mentions (I. 20-28) Brahma, Rudra, Subrahmanya, Indra, Manu, Brihaspati, Sukra, Bharadwaja, Gaurasiras and Vyasa as authors of elaborate works on Polity. It deals specially with *Dhanurveda* (the art of war), and Dr. Oppert claims that its teachings on the subject are more complete than the four chapters (chapters 248-51) on the subject in the *Agnipurana*. Dr. Oppert has also drawn attention to the many passages in common between Vaisampayana and Manu and Kamandaka.

## PAGE 6, LINE 28

**Nitivakyamrita.**

Prof. Radhakumud Mukhopadhyaya (*Introduction* to N. N. Law's *Studies in Ancient Hindu Polity*, vol. i, p. xvii) wrongly assigns the published edition of *Nitivakyamrita* to the 'Kavyamala Series, Bombay'. The *Grantharatnamala* has now been long discontinued. It was due to the enterprise of a different publisher of Bombay. The published edition of Somadeva's treatise is full of errors, and it also differs in some respects from a very old manuscript now in the Palace Library at Trivandrum. An authoritative edition and a translation are needed.

**Halhed's Code and the Vivadarnavasetu.**

Warren Hastings had a Sanskrit Digest of Hindu Law composed by eleven Hindu scholars of Bengal in 1773-1774, and this was translated, under the immediate supervision of the authors, into Persian for Nathaniel Brassey Halhed, who was commissioned by Hastings to translate the work into English. The translation was completed at the beginning of 1775, and was printed in London, in 1776 (*not* in 1781 as stated by Mr. B. K. Acharya,—*Codification in British India*, Tagore Lectures for 1912, 1914, p. 153) under the title of 'A Code of Gentoo Laws or Ordinations of the Pandits from a Persian Translation made from the Original written in the Sanskrit Language'. Halhed's Code was largely consulted, according to Mr. Acharya (*ibid.* p. 368), before the publication of Mr. J. D. Mayne's standard work on Hindu Law (1878).

Apparently the Sanskrit original has always been scarce. Two manuscripts of it are found in the Oriental Manuscripts Library at Madras (No. 3204 and No. 3205), and one is noted by Dr. Oppert as occurring in a private Library (*see* his Catalogue, 2 vols., 1881-2). From the introductory verses prefixed to one of the manuscript copies at Madras, it is clear that *Vivadarnavasetu* is also known as *Vivadarnavabhanjana*. The latter was taken by Dr. Jolly, who must have been familiar with Halhed's Code, for an independent work: 'I have not met anywhere however with a reference to a work entitled *Vivadarnavabhanjana*, which belongs to, or has been strongly influenced by, the Bengal School.' (*History of Hindu Law.*, p. 22.)

Both Sir William Macnaghten and Prosunno Coomar Tagore (Preface to *Vivadachintamani*, p. xxvi) refer to the *Vivadarnavasetu*.

It was reserved for a Lahore pandit (Jwala Prasad) to start the theory of its being a digest prepared for, and at the instance of the famous Sikh ruler, Ranjit Singh of Lahore, and for a zealous Bombay publisher to give extended currency

to the story, when for the first time, the Sanskrit text of the Digest came to be printed.

PAGE 7, LINE 11

### ‘Bhatta Nilakantha’

The capital of the Sengara chief, under whose auspices Nilakantha wrote (*circa* A.D. 1630) appears to have been situated in Bhareha, at the confluence of the Jumna and the Chambal. An account of the great Bhatta family, to which Nilakantha belonged, is given by V. N. Mandlik on pp. lxxiii to lxxviii of the introduction to his translation of *Vyavaharamayukha*. In regard to the influence of the family, V. N. Mandlik says: ‘If we see the actual working of Hindu society, Kamalakara’s *Nirnaya Sindhu* and the other works of Madhava, Narayana and the other Bhattas of Benares, they are more frequently consulted by the people than Vijnaneswara. The reason is clear. The Bhattas belonged to the people. They headed and still head the community of Benares . . . . . They wrote *Nibandhas* for the guidance of the people. These were often founded on old texts; but they likewise incorporated all the accepted usages then current.’ (*ibid.*, p. lxxi.)

Nilakantha’s *Vyavaharamayukha* was translated by Borradaile in 1827. His *Nitimayukha* was lithographed at Benares, in 1880. No critical edition or translation, however, of this important work is yet available.

For the life and times of Nilakantha see also Borradaile in Whitley Stokes’ *Hindu Law Books*, (1866), p. 8. The *Nitimayukha* purports to treat of the conduct and policy of kings.

PAGE 7, LINE 15

### ‘The Manuscript of the Arthasastra’

The manuscript of the *Arthasastra* of Kautilya from which Mr. R. Shama Sastri, B.A., published his edition of the work, in 1909, appears to have come from a Tamil district. Dr. Oppert’s Catalogue of the Sanskrit Manuscripts in the Private

Libraries of South India (2 vols., 1882) has an entry recording a manuscript of an *Arthasastra* of Kautilya or Chanakya among the possessions of a Narasimhacharya of Kumbakonam. How Dr. Oppert came to miss discovering this rare work is probably explained by the note 'Chanakya's *Niti*' against the work in the index, which suggests that the *Arthasastra* was apparently mistaken for the popular *Chanakya Niti*, in about a hundred verses, even now used in our schools.

Mr. A. Mahadeva Sastri, B.A., Curator of the Oriental Library at Mysore, under whose general editorship the *Arthasastra* was first published, has stated to me that he got the manuscript of Kautilya's work from 'one Iyunni Raghavacharya, of a village near Conjeeveram'.

It is possible that the manuscript referred to by Dr. Oppert is still available, unless it happens to be identical with the one acquired by the Oriental Library of Mysore.

#### PAGE 7, LINE 23

#### Niebuhr's discovery of Gaius' Institutes

For the accident leading to the discovery of the Institutes of Gaius at Verona, by Niebuhr, in 1816, see: J. Muirhead—*Historical Introduction to the Private Law of Rome*, second edition (1889), pp. 308-311; Sir W. Smith's *Dictionary of Greek and Roman Biography*, vol. ii (1868), p. 200; Abdy and Walker's *Translation of Gaius and Ulpian* (1885), p. vii and Ortolan's *History of Roman Law* (second edition of English Translation, 1896), p. 200. For Niebuhr's own account of the discovery see his letter to Savigny dated, Verona, September 4, 1816, printed in Bunsen, Brandis and Loebek's 'Life and Letters of B. G. Niebuhr', vol. ii, pp. 52-3.

A single leaf of Gaius—not, however, recognized as such—had been published in 1732 by Scipio Maffei.

'The value of the precious discovery made by Niebuhr', says Sir Henry Maine, in his *Early History of Institutions*, (1874), p. 250, 'when he disinterred in 1816 the manuscript of Gaius, does not solely arise from the new light which was at once thrown on the beginnings of the legal system, which

is the fountain of the greatest part of civilized jurisprudence. There are portions of the treatise, then restored to the world, which enable us to connect with Law, the practices dictated to barbarous men by impulses which it has become the prime office of all Law to control.'

The latter half of Maine's observation could be applied as justly to Kautilya as to Gaius.

#### PAGE 7, LINE 30

#### Kautilya—Names and Personality

The various names by which Kautilya is known in Indian tradition and literature are given in the following verses from the *Abhidhana-chintamani* of the Jaina monk Hemachandra, A.D. 1088-1172 (p. 34, verses 853 (b)—854 (a) in Bombay ed., 1896).

वात्स्यायने महृनागः कौटिल्यः चणकात्मजः ।

द्रामिलः पक्षिलस्वामी विष्णुगुप्तो गुलश्च सः ॥

cf. also Yadavaprakasa's *Vaijayanti* (circle A.D. 1100), ed. Oppert, 1893, p. 96 :—

वात्स्यायनस्तु कौटिल्यो विष्णुगुप्तो वराणकः ।

द्रामिलः पक्षिलस्वामी महृनागोऽद्भुलोऽपि च ॥

In regard to the name *Chanakya*, the *purva-pitika* of Visakhadatta's *Mudrarakshasa* gives a story in explanation. Vishnugupta, i.e. Kautilya, along with his parents, was imprisoned in a dungeon by the Nanda ruler, and they had nothing to live upon but gram (*chanaka*); hence the name Chanakya. But, as Dr. Rajendra Lal Mitra, who has given the story, *Journal of the Bengal Asiatic Society*, vol. 52, (1883), p. 268, has pointed out, the work in question is of modern composition, and Hemachandra's reference to Kautilya as 'the son of Chanaka' shows that the name is clearly a patronymic.

Dr. Mitra's reading of Hemachandra's verses gives *Kutila*, while the Bombay reading is *Kautalya*. Tradition accounts for the name Kautilya by deriving it from *Kutila* crooked cf. *Mudrarakshasa* (Telang's edition, 1893, p. 61).

कौटिल्यः कुटिलमतिः स एष येन

क्रोधाग्नौ प्रसभमदाहि नन्दवंशः ॥

But if this was the sense of the word, it is not likely that Chanakya would use it in speaking of himself—'*iti Kautilyah*', '*na iti Kautilyah*'—as he does seventy-two times in the *Arthasastra*.

'As a student his memory was so strong that he could remember for a fortnight (*paksha*) a thesis once told him, and hence his name *Pakshila-swamin*. . . . As Dramila he is known as a poet' (Mitra, *ibid.*, p. 268). Taranatha's *Vachaspatya* renders Dramila as a 'native of the Dramila (Tamil?) country'.

The passages of autobiographical interest in the *Arthasastra* are:—

सर्वशास्त्राण्यनुक्रम्य प्रयोगमुपलभ्य च ।

कौटिल्येन नरेन्द्रार्थे शासनस्य विधिः कृतः ॥ (p. 75)

येन शास्त्रं च शस्त्रं च नन्दराजगता च भूः ।

अमर्षेणोद्धृतान्याशु तेन शास्त्रमिदं कृतम् ॥ (p. 429)

दृष्ट्वा विप्रतिपत्तिं बहुधा शास्त्रेषु भाष्यकाराणाम् ।

सयमेव विष्णुगुप्तश्चकार सूत्रं च भाष्यं च (p. 429)

'The rules concerning royal edicts have been made by Kautilya for the use of the king of men, in harmony with all the sciences and in accordance with common practice.'

'This work has been composed by the man who rapidly acquired by force knowledge, military power and the earth ruled by the Nanda king.'

‘Having frequently witnessed the contradictions of commentators on the *Sastras*, Vishnugupta (to avoid the evil) himself composed the aphorism as well as the commentary.’

Kamandaka’s important reference to Kautilya is contained in the following verses :—

वंशे विशालवंश्यानां ऋषीणामिव भूयसां ।  
 अग्रतिग्राहकाणां यो बभूव भुवि विश्रुतः ॥  
 जातवेदा इवार्चिष्मान् वेदान् वेदविदांवरः ।  
 योऽधोतवान् सुचतुरः चतुरोप्येकवेदवत् ॥  
 यस्याभिचारवज्रेण वज्रज्वलनतेजसः ।  
 पपात मूर्ध्नः श्रीमान् सुपर्वा नन्दपर्वतः ॥  
 एकाको मन्त्रशक्त्या यः शक्त्या शक्तिवरोपमः ।  
 आजहार नृचंद्राय चन्द्रगुप्ताय मेदिनीम् ॥  
 नोतिशान्त्रामृतं धीमान् अर्थशास्त्रमहोदधेः ।  
 समुद्ध्रे नमस्तस्मै विष्णुगुप्ताय वेधसे ॥  
 दर्शनात्तस्य सुदृशो विद्यानां पारदृश्वनः ।  
 राजविद्याप्रियतया संक्षिप्तग्रन्थमर्थवत् ॥

‘Salutation to the illustrious Vishnugupta, who, sprung from a great family the members of which lived like sages, accepting no alms, attained great eminence in the world ; who shone like the sacrificial fire ; who stood first among those who had grasped the end of the Veda ; who by his genius mastered the four Vedas as if they were only one ; who by the blazing thunderbolt of his magic, completely overthrew the mountain-like Nanda ; who, single-handed, by force of his intelligence, and with a prowess like that of the general of the gods, won the earth for Chandragupta, the pleasing prince ; and who churned out of the ocean of *Arthasastra* the nectar of polity—Salutation to him !



Out of love for the royal science, this work has been condensed from the teaching of that excellent master of all knowledge.'

I hope to show in a forthcoming paper that strong grounds exist for identifying Kautilya with Vatsyayana, the author of the celebrated *Kama-sutra* (ed. Durgaprasada, 1900) and perhaps also with Vatsyayana, the author of the oldest existing commentary on the *Nyaya-sutra* of Gautama.

For the belief of later times that Kautilya (Vishnugupta) wrote on Astrology, see *infra* p.

Kautilya's proficiency in the entire circle of sciences known during his age in India is evidenced by the encyclopædic range of his *Arthasutra*, and, if his identity with the author of the *Kamasutra* and the *Nyaya-bhashya* be established, *that* would only lend confirmation to his reputation for versatile knowledge. It should be mentioned as a significant circumstance that Vatsyayana in the *Kamasutra* also refers to an *Acharyah* and also to a work of Parasara (who is quoted as an authority in the *Arthasastra*) on Erotics. There exists also a *Dhama-sātra* by a Parasara as well as a work on Astrology by a Parasara. Should it be established that the two 'Acharyah' (in the *Arthasastra* and the *Kamasutra*) and the four Parasaras refer respectively to a single Acharya and a Parasara, it would tend to show that the 'schools' of the age did not confine themselves only to certain subjects, to the exclusion of others, but attempted to deal comprehensively with all or most of the sciences or subjects of interest in the period.

The references in the Puranas to Kautilya, are contained in the following translation, which Mr. Pargiter (*Dynasties of the Kali Age*, 1913, pp. 69-70) gives of the *reconstructed Puranic* texts:—

'As son of Mahanandin by a Sudra woman will be born a king Mahapadma (Nanda), who will exterminate all Kshatriyas. Thereafter kings will be of Sudra origin. Mahapadma will be sole monarch bringing all under his sole sway. He will be eighty-eight years on the earth. He will uproot all Kshatriyas, being urged on by prospective fortune. He will

have eight sons, of whom Sukalpa will be the first; and they will be kings in succession to Mahapadma for twelve years.

A Brahman Kautilya will uproot them all; and after they have enjoyed the earth 100 years, it will pass to the Mauryas.

Kautilya will anoint Chandragupta as king in the realm. Chandragupta will be king twenty-four years. Bindusara will be king twenty-five years. Asoka will be king thirty-six years.'

(For Mr. Pargiter's views as to the date when these accounts were definitely compiled and introduced into the Puranas, see p. xxvii of the Introduction to his work.)

Another important reference to Kautilya is contained in the following passage, translated from the earlier and older half of the Ceylonese chronicle, the *Mahavamsa* of Mahanama, circa A.D. 450):—

'Afterwards, the nine Nandas were kings in succession, they too reigned twenty-two years. Then did the Brahman Chanakka anoint a glorious youth, known by the name Chandagutta, king as over all Jumbudvipa, born of a noble clan, the Moriyas, when, filled with bitter hate, he had slain the ninth (Nanda) Dhanananda.' (Introduction by W. Geiger, Pali Text Society, ed., 1912, p. 27). The additional information about Kautilya, given by G. Turnour, (see his *Mahavanso*, 1837, p. xl), and the elaborate extracts quoted by Max Muller, in his *History of Ancient Sanskrit Literature*, (2nd ed., 1860, pp. 281-95), are taken from the *Mahavamsa-tika* the commentary on the *Mahavamsa*, supposed by Turnour to be also the composition of the author of the *Mahavamsa* itself, but now proved by Geiger (abstract translation of his *Dipavamsa und Mahavamsa* in the *Indian Antiquary*, 1906, p. 159) to have been composed only between A.D. 1000 and 1250.

But there existed in Ceylon, in the monasteries, an ancient *Attakatha-Mahavamsa*, in various recensions, as early as about A.D. 400. Geiger has no doubt (*vide* his *Mahavamsa*, Introduction p. xi) that this work was before the commentator of the *Mahavamsa*, and was equally accessible to his contemporaries, and that 'for this reason, his (the commentator's) statements acquire particular importance.'

The salient statements in the commentary on the *Mahavamsa* regarding Kautilya are that he was a learned Brahman of Takshasila, that he amassed a great treasure by debasing the currency, that he was devoted to his mother and implacable in his enmities, that he had a grudge against the last Nanda who had publicly insulted him, that he was the prime mover in the revolution which overturned the Nanda dynasty and in which he first suffered reverses, and that he continued to be a minister of Chandragupta Maurya long after his accession. These particulars are corroborated in the Indian tradition preserved for us in Visakhadatta's *Mudrarakshasa* (c. seventh century A.D.). As against the Ceylonese tradition that Kautilya was a native of Takshasila we have the equally strong tradition in South India that he was born in the peninsula. It is significant that one of the names by which Kautilya is known in Indian literature is Dramila, which is explained in the great lexicon, the *Vachaspathya* of Taranatha, as a native of Dramila, i.e., a portion of the Dravida country.

PAGE 8, LINE 2

### **Date of the Puranic dynasties lists**

Mr. Pargiter's conclusions are summed up in paragraphs 48-52 of the Introduction to his *Purana Text of the Dynasties of the Kali Age*, 1913. The final accounts in the *Bhavishya* and the *Matsya Puranas* are held to have been incorporated about A.D. 250 and in the last quarter of the third century A.D. He further holds that the *Bhavishya* account was revised, in regard to subject matter, about A.D. 315 to 320, and in regard to the language, about A.D. 325-330.

PAGE 8, LINE 22

### **Kamandaka's date**

The lower limit to Kamandaka's *Nitisara* is afforded by the quotations from it in the *Panchatantra* (sixth century A.D.) and the reference to it by Dandin, who lived towards the

latter half of the sixth century. It is also obviously more recent than the extant Code of Manu, to which Bühler assigned the second century A.D. as the lower limit. Kaman-daka's claim that Kautilya was his Master does not necessarily signify that they were contemporaries, as has been sometimes urged. An instance in point is afforded in the rare and ancient commentary of Viswarupa (who lived confessedly some hundreds of years after Yajnavalkya)—now being prepared for publication by Pandit T. Ganapati Sastri of Trivandrum, where Viswarupa refers to Yajnavalkya as 'Master' (*Acharya*); e.g. commentary on I, 22:—

तस्य च विधिः आचार्येण एव अन्यत्र अभिहितः ।

विद्यमाने प्रभूते हि नाल्पे स्नानं समाचरेत् ।

Further it has to be observed that Kamandaka refers to Kautilya by the term *वेधस्*, a term of intense reverence suggestive of the personage referred to being an ancient sage.

PAGE 8, LINES 27-8

### Dandin and Bana on Kautilya.

For the famous ironical passage on Kautilya's *Arthasastra* in Dandin's *Dasakumaracharita*, see *ibid.*, ed. Bühler, vol. II, pp. 51-5. The passage has been compared by Mr. Shama Sastri with the appropriate portions in the *Arthasastra* (see his Sanskrit Introduction to his edition of the *Arthasastra* pp. vi-vii). For Bana's (*circa* A.D. 630) reference to Kautilya's work, see his *Kadambari*, ed. Peterson, 1889, vol. i, p. 109. The passage runs thus:—

किं वा तेषां सांप्रतं येषां अतिनृशंसप्रायोपदेशनिर्घृणं कौटिल्य-  
शास्त्रं प्रमाणं, अभिचारक्रियाक्रूरैकप्रकृतयः पुरोधसो गुरुवः, परा-  
भिसंधानपराः मन्त्रिणः उपदेष्टारः, नरपतिसहस्रभुक्तोज्झितायां लक्ष्म्यां  
आसक्तिः, मारणात्मकेषु शास्त्रेषु अभियोगः, सहजप्रेमाद्रहदयानुरक्त-  
भ्रातरः उच्छेद्याः ।

### The Panchatantra and Kautilya.

The *Panchatantra* has the following references to Kautilya and the Chanakya legend:—

(1) ततो धर्मशास्त्राणि मन्वादोनि, अर्थशास्त्राणि चाणाक्या-  
दोनि, कामशास्त्राणि वात्स्यायनादोनि ।

(ed. Kielhorn, 1896, I. p. 2).

(2) कूटलेख्यैः धनोत्सर्गैः दूषयेत् शत्रुपक्षजम् ।  
प्रधानपुरुषं यद्वत् विष्णुगुप्तेन राक्षसः ॥

(Part II, ed. Bühler, 1891, p. 65).

(3) बुद्धे बुद्धिमतां लोके नास्ति अगम्यं हि कंचन ।  
बुद्ध्या यतो हताः नन्दाः चाणक्येनासिपाणयः ॥

(Part III, ed. Bühler, 1891, p. 50).

(4) स औशनसबार्हस्पत्यचाणक्यमतवित्तदनुष्ठाता ।

(*ibid.* p. 57).

The *Panchatantra* was first translated into Pahlavi in the time of Anushirvan the Just, under the name of *Kalila and Dimna*. (E. G. Browne, *Literary History of Persia*, 1902, p. 110). It was translated from Pahlavi into Arabic, in A.D. 757 by Ibn'ul-Muqaffa, and from Arabic into Persian, about A.D. 900, by Rudagi, 'the first really great poet of Moham-medan Persia' (*ibid* p. 275 and pp. 455-7, and Col. P. M. Sykes—*History of Persia*, 1915, vol. i, 497, and vol. ii, p. 132).

The upper limit to the date of the *Panchatantra* is fixed by the quotations from Varahamihira's *Brihatsamhita* (IX. 25, and xlvii, 14) in Part I, p. 43 (ed. Bühler). This

great astronomer was born near Ujjain, began his calculations about A.D. 505, and, according to one of his commentators died in A.D. 587. (Macdonnell, *History of Sanskrit Literature*, p. 435). It is clear, therefore, that unless the quotation from Varahamihira is an interpolation in the *Panchatantra*, that its author and Varahamihira were both contemporaries of Chosroes Anushirvan. The translation of the *Panchatantra*, so soon after its composition may prove an indication of either Anushirvan's zeal or of the easy literary intercommunication between India and Persia in the sixth century A.D.

Among other writers quoted in the *Panchatantra*, it is interesting to observe, are Kamandaka, from whose work (cantos 8, 9, 10 and 13) fourteen quotations occur; Bhartrihari; Kalidasa, from whose *Kumarasambhava* (II. 55), a quotation occurs (Part I. p. 51); Magha, whose *Sisupalavadha*, II. 54 is quoted on p. 45, Part II; and Vasishta, a verse from whose *Smriti* is quoted once (Part III, p. 41).

Vyasa, Manu, Sukra, Brihaspati, Salihotra, and Vatsyayana are other writers referred to in the *Panchatantra*.

PAGE 9, LINE 4

### Dramatization of the Chanakya Legend

Visakhadatta has fully utilised the Indian legend of Chanakya in his *Mudrarakshasa*. For a free translation of the play, see H. H. Wilson *Select Specimens of the Theatre of the Hindus*, (1827). It was edited, with characteristic excellence, by the late Mr. Justice K. T. Telang. Mr. Telang came to the conclusion that the play was written about the early part of the eighth century A.D. (see his Introduction, page xxvii). Wilson was inclined to ascribe the eleventh or the twelfth century A.D. for its composition. Professor E. J. Rapson (*J.R.A.S.*, 1900, p. 535), places it in the seventh century. Professor Tawney (*J.R.A.S.*, 1908, p. 910) regards it as much anterior to the *Panchatantra*. Mr. Vincent Smith (*Early History of India*, 3rd ed., 1914, p. 43, and p. 120) suggests that the play was composed in the fifth century A.D., and probably

about A.D. 400, in the reign of Chandragupta II. Should this ascription of so early a date for the drama be justified, we shall possess another proof of the currency of the full Kautilya legend in the Gupta period and earlier.

PAGE 9, LINES 14-15

### Mallinatha's place of birth and date

The late Maha-mahopadhyaya Durgaprasada states in his edition of Magha's *Ssupalavadha* that the great commentator was a Telugu Brahman of Tribhuvanagiri in Cuddapah District, and belonged to the Vatsa Gotra. Mallinatha quotes the grammarian Bopadeva, who was patronized by Ramachandra (A.D. 1271 to 1309), the Yadava king of Devagiri. This makes it impossible to accept the date Vikrama Samvat 1298 assigned by Dr. Peterson (Report of the Search for Sanskrit Manuscripts, 1812-1883) for the birth of Mallinatha's son Narahari or Sarasvati-tirtha. This date would be probable, if it is taken as in the *Saka* era. Mallinatha also quotes the *Ekavali* of Vidhyadhara, which mentions Vira-Narasimha III of the Hoysala dynasty, who reigned between A.D. 1254 and 1292. A verse of Mallinatha is quoted in an inscription of A.D. 1533. Mr. K. B. Pathak (preface to his edition of *Meghaduta*) and Mr. G. R. Nandarkikar (ed. of *Raghuvamsa*, preface, pp. 1-9) adduce other grounds making it very probable that Mallinatha flourished about A.D. 1350.

PAGE 9, LINE 27

### Further references to Kautilya in later literature

1. Medhatithi (eighth or ninth century A.D.), the author of the oldest extant commentary on Manu, in commenting on *Manusmriti*, VII, 43, takes an alternative reading तद्विद्वयः for त्रैविद्येभ्यः, and explains it by referring to Chanakya as the type of the teachers alluded to. (See V. N. Mandlik's edition of *Manusmriti*, p. 774.)

In the same passage he refers to the views of *Barhaspathah*,

in elucidating *varta* (the principles of commerce and industry), showing that the teachings of this ancient school of polity, to which Kautilya himself refers, continued to be known at least down to Medhatithi's day. Kamandaka also appears to have known Brihaspati's work.

2. Kshiraswamin, an old commentator on Amarasimha's famous lexicon, who is long anterior in date to Vandhyaghatiya Sarvananda (A.D. 1159), whose own commentary on *Amara*, named *Tika-sarvasva*, is now in course of publication in Travancore,—in commenting on Canto II, verse 21 of *Amara*, viz. ५

उपधा धर्माद्यैः यत्परीक्षणम् ।

says :—

यत्कोटिल्यः—“उपधाभिः शौचाशौचज्ञानं अमात्यानाम्”.

(Kautilya, p. 16).

3. The *Tika-sarvasva* of Vandhyaghatiya Sarvananda paraphrases a passage in Kautilya (p. 302, ll. 14–18), when commenting on *Amara* II, 10, and refers it to ‘*Arthasastra*.’ As the passage in question is not to be found in Kamandaka, it is probably either a variant of the published reading in Kautilya, or it is a paraphrase of the passage.

4. Dinakara Misra, whose commentary on Kalidasa's *Raghuvamsa* was composed, according to his own express statement, in A.D. 1385, quotes Kautilya, when commenting on *Raghuvamsa*, III, 12 (*vide* p. 18 of Appendix in S. P. Pandit's edition of *Raghuvamsa*, 1874).

5. Charitra-varadhana, an older commentator, whom Dinakara quotes, has referred to Kautilya in commenting on III. 13, IV. 21, and XVII. 56 of *Raghuvamsa*.

6. Mallinatha's references to Kautilya are to be found in his comments on the following passages of *Raghuvamsa* :—III. 29, 35, IV. 35, VIII. 21, XV. 29, XVII. 49, 55, 56, 76, 81, and XVIII. 49. It is noteworthy that he quotes a maxim from the popular *Chanakya-niti* also in commenting on I. 22. The quotation ascribed to Kautilya by Mallinatha, in his comments



on *Raghuvamsa*, XV. 29, is ascribed to *Chanakya* by Mallinatha's predecessor Dinakara, thereby showing the belief then current in the identity of Kautilya and Chanakya. Charitrvardhana also does so in his comments on III. 29, 34, XV. 29, and XVIII. 14.

7. For the quotations in Narayana's gloss on Arunachala's commentary, see the commentary on *Kumarasambhava*, Cantos I. 29, II. 31, 31 (Ganapati Sastri's edition, 3 vols., Trivandrum, 1913-4).

8. Jimutavahana's *Vyavahara-Matrika*, whose discovery and publication (1912) we owe to Sir Asutosh Mukhopadhyaya, quotes a certain Kaundinya six times (cf. *ibid.*, p. 288, and pp. 340-1). One of these is a quotation from Kautilya (p. 174), while the others are identical in substance with another passage in Kautilya (p. 148). It is thus evident that Kautilya's work was available to the great founder of the Bengal School of Hindu Law (fourteenth century A.D.), who did not refuse to quote an *Arthasastra* (*pace* Yajnavalkya) in a work on Dharma. A comparison of the different quotations from Kautilya in each of the three above commentaries will correct the argument, which may be put forward, that the quotations from Kautilya may have been merely obtained from their predecessors by the later commentators. It is clear from such a comparison that the *Arthasastra* was available *equally* to Dinakara, Charitrvardhana and Mallinatha. It is also noteworthy that though Kamandaka's *Nitisara* is quoted in the commentaries (of these writers) on as many as twenty-one passages of *Raghuvamsa*, in nineteen cases out of the twenty-one, the quotations from Kamandaka do not cover the same ground as those from Kautilya. This would imply the deliberate preference for the older authority, when both the original and the later writer were available.

PAGE 10, LINES 13-14

### Somadeva's use of the *Arthasastra*

Somadeva frequently quotes the very words of Kautilya, but, with much literary skill, he weaves them into the general

texture of his argument or discourse, making it difficult to discover that he is quoting from another writer. Compare Kautilya p. 12, ll. 15, 16 with Somadeva, p. 5, ll. 14-16; Kautilya, p. 6, ll. 9 with Somadeva, p. 10, ll. 1; Kautilya, p. 26, ll. 10 with Somadeva, p. 28, ll. 4; Kautilya, p. 42, ll. 15-19, with Somadeva, p. 87, ll. 6-9, etc. Somadeva refers to incidents of the Kautilya Legend, while he curiously avoids acknowledging his quotations from Kautilya. Thus, on page 25, he enforces the importance of having good ministers by reference to Kautilya's services to Chandragupta Maurya; and on page 52, he mentions a story that Kautilya had King Nanda assassinated by a secret emissary.

#### PAGE 10, LINES 18-26

#### Size and scope of the Arthasastra

These are described on pages 1 to 6, of the *Arthasastra*. It is curious that Vatsyayana has adopted an identical procedure in the *Kamasutra*. Kautilya, like Vatsyayana, claims to have composed both aphorism (sutra) and explanation (bhashya). Cf. *Arthasastra* p. 429 and *Kamasutra*, pages 9 and 370. In both works, the authors claim to base their teachings on experience or usage (prayoga).

#### PAGE 11, LINE 19

#### Sutra Form of Composition

The following observations of Professor Rhys Davids, though intended to refer only to the Buddhist *Suttas* (sutras) would repay the attention of students of Kautilya's *Arthasastra*:—

‘We talk of Pali books. They are not books in the modern sense. They are memorial sentences intended to be learnt by heart; and the whole style, and method of arrangement is entirely subordinated to this primary necessity. The leading ideas in any one of our *Suttantas*, for instance, are expressed in short phrases not intended to convey to a European reader the argument underlying them. These are

often repeated with slight variations. But neither the repetitions nor the variations—introduced, and necessarily introduced, as aids to memory—help the modern reader very much. That, of course, was not their object. For the object they were intended to serve they are singularly well chosen, and aptly introduced.

‘Other expedients were adopted with a similar aim. Ideas were formulated, not in logically co-ordinated sentences, but in numbered groups; and lists were drawn up such as those found in the tract called the *Silas*, and in the passage on the rejected forms of asceticism, both translated below. These groups and lists, again, must have been accompanied from the first by a running verbal commentary, given, in his own words, by the teacher to his pupils. Without such a comment they are often quite unintelligible, and always difficult.

‘The inclusion of such *memoria technica* makes the Four *Nikayas* strikingly different from modern treatises on ethics or psychology. *As they stand they were never intended to be read.* And a version in English, repeating all the repetitions, rendering each item in the lists and groups as they stand, by a single English word, without commentary, would quite fail to convey the meaning, often intrinsically interesting, always historically valuable, of these curious old documents.

‘It is no doubt partly the result of the burden of such *memoria technica*, but partly also owing to the methods of exposition then current in North India, that the leading theses of each *Suttanta* are not worked out in the way in which we should expect to find similar theses worked out now in Europe. A proposition or two or three, are put forward, re-stated with slight additions or variations, and placed as it were in contrast with the contrary proposition (often at first put forward by the interlocutor). There the matter is usually left. There is no elaborate logical argument. The choice is offered to the hearer; and, of course, he usually accepts the proposition as maintained by the Buddha. The statement of this is often so curt, enigmatic, and even owing not seldom simply to our ignorance, as yet, of the exact force of the technical terms

used—so ambiguous, that a knowledge of the state of opinion on the particular point, in North India, at the time, or a comparison of other *Nikaya* passages on the subject, is necessary to remove the uncertainty.'

See also E. J. Rapson, *Ancient India*, 1914, pp. 76-77.

#### PAGE 11, LINE 31

#### **Fear of the 'Arthasastra'**

In an age of belief in the supernatural, portions of the *Arthasastra* like Book XIV, which deals with secret means, spells and incantations, as well as the references like those to be found on pages 206, 208, 418, 420, etc., to spells and magic must have made rulers afraid of such a practical manual of magic and witchcraft passing into the hands of disaffected subjects or of enemies. The inductive treatment by Kautilya of questions like the overthrow of princes, etc., must also have made it desirable, in the interests of kings, to prevent the popularization of his work.

#### PAGE 12, LINES 26-30

#### **Sukra on Brahman and non-Brahman**

For Sukra on the exalted position of the Brahman, see Chapter III, lines 546-50; Chapter IV, section III, lines 32, 37-40; Chapter IV, section 5, lines 38-9; Chapter IV, section 7, lines 458, 604-7, 634-5, 649-50, 653-5, and 664-7. It is clear from the qualifications prescribed by Sukra for the more important civil offices of the State, taken along with his rule that officers should be transferred from department to department, that the higher civil functionaries were intended to be Brahmans. On the other hand, in Chapter II, lines 277-80, he recommends any non-Brahman, with the appropriate qualifications for places in the Army. In Chapter I, verses 75-88, he states that virtue and good work and not birth determine caste. The same idea is repeated in Chapter IV, section 3, lines 27-30.

The following significant statement of Sukra appears to indicate the composition of the *Nitisara* in a period of non-Brahman ascendancy:—

‘Caste or race should not be the only thing to be looked for in appointing an officer. Work, character, and merit have to be respected, not mere caste or family. Caste is appropriate (only) in dinners and in weddings.’ (II, 110-13.) ‘The king augments the happiness of the caste to which he himself belongs.’ (II, 869.)

‘Neither through caste, nor through birth can the Brahman spirit be created.’ (I, 75-6.)

PAGE 14, LINES 10-17

### **Kamandaka and Kautilya**

Kamandaka, Chapter IV, verse 33, recommends the appointment of a royal astrologer. Kautilya allows an astrologer to be appointed but condemns excessive addiction to astrology. As an instance of Kamandaka's turning into verse the very illustrations of Kautilya, see Kamandaka, Chapter VII, verses 51-4, with Kautilya, page 41, lines 11-15. Kamandaka's quotations from or references to the views of Brihaspati, and Acharya, appear to be taken second-hand from Kautilya.

PAGE 15, LINES 1-10

### **Bühler on Manu**

Dr. Bühler's translation of the Laws of Manu was published in 1886. In his elaborate introduction to the translation, Dr. Bühler (pp. cxiv-cxvii) fixed the limit of the *Manusmriti* ‘at the beginning of the second century A.D., or somewhat earlier.’ Bühler (*ibid.*, p. cxviii) assigns Yajnavalkya and Narada to the fourth or fifth century A.D., and Brihaspati to the sixth or seventh century A.D. Dr. Burnell in the Introduction to the translation of Manu, begun by him and completed Professor E. W. Hopkins in 1891, has tried to show that the extant version of Manu was composed in the Dakhan about A.D. 500, when Pulakesin was reigning at Kalyanapuri. (*Vide* Introduction, p. xxvii). Dr. Jolly's date for Yajnaval-

kya is given on pp. 48-9 of his *History of Hindu Law*, the contents of which were delivered in the form of lectures three years *before* the publication of Bühler's *Manu*.

PAGE 15, LINE 19

### Niyoga

'Niyoga means order, commission, and this order or commission in which the whole practice centres was to the effect that a brother or other near kinsman (sapinda), or on the failure of such, any member of the highest or Brahman caste was to beget a son and heir to one either deceased, or alive but incapable of begetting male issue.' (Jolly, *History of Hindu Law*, p. 152.)

The chief references on the subject in the *Dharma-sastras* are to be found in:—

Gautama, XVIII. 4-14; XXVIII. 22-23; Vasishtha, XVII. 14, 55-66; Baudhayana, II. 2, 4, 7, 10; II. 2, 3, 17; Vishnu, XV. 3; Manu, IX. 56-63, 143-7, 164-7; Yajnavalkya, II. 127-8; and Narada, XII. 80-88.

Dr. Jolly (*ibid.*, p. 153-4) holds on insufficient grounds that Niyoga was originally restricted to widows and was in later times extended to wives, and apparently overlooks the data in the *Mahabharata* and the available evidence in reference to the growth of the institution in other countries, which point the other way.

PAGE 15, LINES 25 AND 30

### Courtesans, gambling and drink

See Kautilya, pp. 44, 123-6, 197-8, and 119-22. He prohibits (p. 362) disputation, drinking, meetings and dicing in military encampments.

PAGE 16, LINE 3

### Brihaspati on Manu

The texts on the subject are thus rendered by Dr. Jolly, *Narada and Brihaspati*, S.B.E., Vol. XXXIII, p. 387, (*Brihaspati*, Vol. XXVII, pp. 2-3):—

2. 'In the case of a conflict between two Smritis (texts

of law), equity should be resorted to; when the law-books are inapplicable, that course should be followed which is indicated by a consideration of the circumstances of the case.'

3. '(However) the first rank (among legislators) belongs to Manu, because he has embodied the essence of the Veda in his work, and that Smriti (or text of law) which is opposed to the tenor of the laws of Manu is not approved.'

PAGE 16, LINES 6-7

### Remarried widows and unwedded mothers

See Kautilya, p. 164 where the terms *kanina* and *paunarbhava* are defined as meaning respectively the son of an unmarried damsel and the son of a remarried widow.

PAGE 16, LINE 10

### Heresy, apostasy and blasphemy

Kautilya (p. 48) :- 'When a person able to do so does not maintain child, wife, parents, brothers under age, sisters (unmarried and widowed) he is to be fined twelve *panas*. The benefits of the rule shall be otherwise in the case of outcastes, the case of an outcaste mother being an exception to the exception.' Mr. Shama Sastri's version, 'when a capable person other than an apostate or mother neglects to maintain his or her child, wife, mother, father, etc.' is obviously incorrect, as it makes the rule inconsistent in itself and with the rest of Kautilya's teaching, especially in regard to the status of women, and the duty to maintain even relations (*bandhavah*). Sukra's condemnation of the atheist (*nastika*) and the blasphemer (*aryadevadushaka*) is to be found in the elaborate list of persons to be punished by the just king, given in Chapter IV, section 1, lines 194-222 (pp. 107-8 of Oppert's edition). The list significantly includes 'the violator of the prescribed rules of conduct for the castes and orders' (*tyakta-varnasramachara*).

On the treatment of apostasy, heresy and blasphemy in English Law: see, Pollock and Maitland, *History of English Law*, Vol. I, p. 437, and Vol. II, 544, pp. 52; Maitland-*Collected Papers*, Vol. I, pp. 385-406 (Apostasy at Common Law), and Vol. II, pp. 274, 279 (divorce for blasphemy). The first article of Maitland deals with the famous case of the deacon, who was burnt in 1222, because he had turned Jew for love of a Jewess. On blasphemy as a crime in English Law, see Sir J. F. Stephen, *History of the Criminal Law*, Vol. II, p. 475, and W. Blake Odgers, *Digest of the Law of Libel and Slander*, (1896), pp. 463-90. 'It is a misdemeanour, punishable by indictment and criminal information, to speak or write and publish any profane words vilifying or ridiculing God, Jesus Christ, the Holy Ghost, the Old and the New Testament, or Christianity in general, with intent to shock and insult believers, or to pervert or mislead the ignorant and unwary. This is the crime of blasphemy, and on conviction thereof, the blasphemer may be sentenced to fine and imprisonment to any extent, in the discretion of the Court. Formerly he was frequently also sentenced to the pillory or to banishment. He may also be required to give security for good behaviour for any reasonable time after he comes out of prison.' (Odgers, *ibid.*, p. 462.) In Scotland blasphemy, in certain circumstances, was a capital offence, till the year 1813.

PAGE 16, LINE 17

### **Brihaspati on Gambling**

Dr. Jolly places the institutes of Yajnavalkya chronologically between Manu and Brihaspati (*History of Hindu Law*, p. 63). He also states that Brihaspati cannot be placed later than about the sixth century A.D. (*ibid.*, p. 46).

The significant passages of Brihaspati on gambling are :—  
'Manu has forbidden the amusement (of gambling) because truth, purity and wealth are destroyed by it. Others have made provisions for it for the arrest of thieves. Government officers may take part in its proceeds and conduct it. Yajnavalkya says: 'Gambling with dice should be allowed under



the superintendence of a Government officer, in order to find out thieves. . . . The king shall punish those who gamble to cheat others, those who embezzle revenue, and those who deceive the public.' (*Vide* P. C. Tagore's Translation of Vachaspati Misra's *Vivada-Chintamani*, (1865), pp. 318-9). The readings translated by Dr. Jolly in S.B.E., Vol. XXXIII, pp. 385-6, differ slightly from those in *Vivada-Chintamani*.

PAGE 16, LINES 17-23

### Rules of Inheritance according to Kautilya and Manu

See Kautilya, Book III, Chapters V-VII, pp. 160-6. His rules in regard to unequal distribution of family property among sons are analogous to those in the older *Dharma-Sastras*, e.g. Baudhayana, II. 2, 3-9; Gautama, XXVIII. 5-13; Apastamba, II. 6, 13; and Vasishtha, XVII. 42-45. For Manu's rules see the ninth book of his Institutes.

Manu, IX. 131, restricts to unmarried daughters the right to inherit the mother's separate property. Kautilya (pp. 160 and 162) makes no difference in the shares of sisters inheriting either paternal or maternal property, though he provides for an unmarried daughter receiving in addition, a marriage fee or dowry out of the father's estate.

Parasara (as quoted in *Vivada Chintamani*, Tagore's Translation, p. 293) says: 'Let a maiden daughter take the heritage of one who dies leaving no male issue; if there be no such daughter, a married one shall inherit.' Narada, Manu and Brihaspati state generally that 'the daughter is equal to the son', but their teaching gives the daughter the right to inherit only if the dead man leaves neither son nor widow. Kautilya's rule is more liberal in this respect also, since he lays down (p. 160):—'If a man has sons, they get his property; but if he has daughters only, who are born in unions contracted according to the first four kinds, they get his property.' It is evident that, in course of time, fresh restrictions came to be placed on the right of daughters in inheritance, till the position described by Jolly (*History of Hindu Law*, pp. 200-2001) was reached.

Primogeniture as the rule in regal inheritance is thus definitely laid down by Kautilya, p. 35 :—

अन्यत्रापद ऐश्वर्यं ज्येष्ठभागी तु पूज्यते ।

i.e. except in dangers, sovereignty is commendable only when it descends to the eldest son.

Sukra (II, ll. 28-31) in giving the following list of persons from among whom the Heir (Yuvaraja) may be chosen indicates that primogeniture was not universally deemed the rule in his day :—

कल्पयेत् युवराजार्थं औरसं धर्मपत्तिजम् ॥

स्वकनिष्ठं पितृव्यं वा अनुजं वा अप्रजसंभवम् ॥

पुत्रं पुत्रीकृतं दत्तं यौवराज्येऽभिषेचयेत् ।

क्रमादभावे दौहित्रं स्वस्त्रीयं वा नियोजयेत् ॥

PAGE 16, LINE 23

### Suicide

See the four verses in Kautilya, p. 217. The corpse of the suicide is to be dragged through the streets by a Chandala, cremation and funeral rites are to be denied to suicides, and those relations who violate these provisions are themselves liable to similar penalties and to forfeit their rights of sacrificing, teaching and receiving gifts.

The texts of Narada (XII, 97), Manu (IX, 115) and Parasara (IV, 28), which refer to the son of a remarried woman (*punarbhū*), show that in ancient Indian law, even in times later than Kautilya's, marriage with one who was not a virgin was quite valid. These along with the texts on *niyoga* would also show that *Sati* (immolation of widows) was not of universal practice. It is true that Vishnu (XXV, 14), whose work is in Sutra form, lays down that a widow should either live chaste under various restraints or be burnt on her husband's funeral pyre. But, though it is clearly based on an ancient *Dharma-Sutra* of the *Charayaniya-Kathaka Sakha* of the Black Yajur Veda, in its *present* form it is

clearly not earlier than the third or fourth century A.D. (See Jolly's Introduction to his translation of Vishnu, in S.B.E., VII, 1880, pages vii to xxxii), and the passages referring to self-immolation are suspiciously like interpolations. (See *ibid.*, p. xxix). The growth of the opinion that *Sati* was meritorious may be seen in the passages quoted by Nandapandita in his commentary on Vishnu, and translated by Colebrooke in his essay on 'the Duties of a Faithful Hindu Widow'. The Smritis of Parasara (IV, 30-31) Daksha (IV, 18) and Vyasa (II, 53), which commend *Sati* are admittedly of still more recent composition than the extant *Vishnu-Smiti*.

Kautilya's condemnation of every kind of suicide is in accord with the old Indian view that 'the suicide goes to hell and attains ill-fame'—आत्मत्यागी हि अधो याति वाच्यतां च अयशस्करो—, *Mahabharata*, Parva III, Chapter 253, verse 2, (Kumbakonam edition), in support of which an edifying story is told in the Epic, Parva III, Chapters. 250-3. See also *infra* p. 21 ll. 9-10 and the connected Note in the Appendix.

PAGE 16, LINES 31-32

### Kautilya and Astrology

On page 349, Kautilya condemns excessive questioning the stars in the following verse, which has been misunderstood as showing Kautilya's disbelief in Astrology :—

नक्षत्रमतिपृच्छन्तं बालमर्थोऽतिवर्तते ।

अर्थो ह्यर्थस्य नक्षत्रं किं करिष्यन्ति तारकाः ॥

That this view is not correct is evidenced from page 245 of the *Arthasastra*, where Kautilya provides a salary of 1000 *panas* for the sooth-sayer, the reader of omens and the astrologer. Further, on page 116, he lays down rules for forecasting rain-fall by observing the position, motion, etc., of the sun and the moon and of the planets Jupiter and Venus.

There is also a great tradition that Kautilya was an expert in astrology, and the *Mudrarakshasa* makes a pointed use of

this tradition. The *Brihajjataka* of Varahamihira [edition, Allahabad (1912), pp. 131-2] refers to Vishnugupta as the author of a work on *Ayurdhaya*, i.e. calculation of longevity. The commentary on the *Brihajjataka* quotes Chanakya twice or thrice. There is no reason to believe that Kautilya, who believed in spells and incantations, disbelieved in astrology.

It is significant that the later Smriti of Yajnavalkya lays stress on the royal Purohita being an expert in astrology (I. 313).

PAGE 17, LINE 2

### Sukra and Varahamihira.

Compare *Sukraniti* (ed. Oppert), pages 133-5, lines 91-146, with *Brihatsamhita*, chapters, 29, 55, 56 and 58; also see Sukra, pages 180-191, lines 68-328 with chapters 66 and 67 of *Brihatsamhita*.

PAGE 17, LINES 18-20

### Fitness of the Four Castes for the Army.

Kautilya, page 343, discusses the merits of the four castes as soldiers, and expresses the opinion that a Brahman Army would not be advantageous :—

“ब्राह्मणक्षत्रियवैश्यशूद्रसैन्यानां तेजःप्राधान्यात् पूर्वः पूर्वः श्रेयः सन्नाहयितुम्” इति आचार्याः । नेति कौटिल्यः ।

प्रणिपातेन ब्राह्मणबलं परोऽभिहारयेत् ।

प्रहरणविद्याविनीतं तु क्षत्रियबलं श्रेयः ।

बहुलसारं वा वैश्यशूद्रबलमिति ॥

PAGE 18, LINES 3-6

### Kautilya and Yajnavalkya.

For the remarkable similarities between the precepts of Kautilya and those of Yajnavalkya, see Mr. Shama Sastri's Preface, pp. x and xi and the foot-notes giving the references

to parallel passages in Yajnavalkya. See also Pandit Ganapati Sastri's Introduction to Mr. S. S. Setlur's edition of the *Mitakshara* (1912), pp. 1-6. To my mind, it seems clear from a comparison of the parallel passages that the *Smriti* is borrowed in this instance from the *Arthasastra*.

Since the Notes were set up in type, I have seen the appendix to Dr. J. Jolly's *Dharmasastra und Arthasastra* (Z.D.M.G., 1913, pp. 43-96), which exhibits in parallel columns similar passages in the *Arthasastra* and the *Smritis* of Gautama, Baudhayana, Apastamba, Narada, Brihaspati, Katyayana, Parasara, Vyasa, Devala and Vriddha-Manu (*ibid.*, pp. 51, 90). Over two hundred passages from the *Arthasastra* (Books III to V, pp. 147-234) are cited in this statement.

To these, the parallels from Yajnavalkya are not only more numerous than those from any other *single Dharma-sastra* (over eighty as against, for instance, about fifty each from Manu and Narada and only a score from Vishnu) but they also present in many cases closer affinities in phraseology and point of view. The significance of this feature—has been indicated in the Lecture (*infra* p. 18).

That Manu and Narada—should, after Yajnavalkya—present the greatest number of parallels to the views of Kautilya is also quite explicable.

For, as Bühler (*Laws of Manu*, 1886, pp. liv. to lvii.) has pointed out, the *Smriti* of Manu is (1) a textbook, (2) is more systematic and comprehensive in character than any *Dharma-sutra*, (3) is free from sectarian bias, (4) claims (on account of its comprehensive nature and the tradition regarding the omniscience of its reputed author) the allegiance of all Hindus and to form an integral part of the necessary studies of *all* Aryas, and (5) has attained its great influence through 'the myths which, since very early times have clustered round the name of Manu, and in progress of time have been more and more developed and brought into a system.' A *Smriti* with such wide claims might naturally be expected to show leanings to secular views like those in the *Arthasastra*.

In the case of Narada, the numerousness of the similarities is even more easily explained, for 'it is the only work of its

kind, in which Civil Law is treated by itself without any admixture of rules relating to rites of worship, penances and other religious matters.' (Jolly, *History of Hindu Law*, 1885, p. 49.)

Points in Yajnavalkya *Smṛiti* making it necessary to ascribe a late date to its composition are: (1) its reference to Buddhists, (2) its advocacy of astrology of an elaborate character, (3) its commendation of the worship of Ganapati and the planets, (4) its condemnation of Kayasthas, (5) its comprehensive scope and literary finish, and (6) above all, the fact that considerable parts of it are traceable to Sutra works like the *Manava-grihya Sutra* and *Vishnu Smṛiti*.

#### PAGE 19, LINES 1-9

#### Usage and Vyavahara.

Vijnanesvara's words occur in his comments on Yajnavalkya chapter II, verses 118 and 119.

Nilakantha (translation by Mandlik, p. 85, ll. 18-22) says: 'And usage tells the same. Therefore, while it is possible to explain this text in conformity to usage, it is improper to suppose a text opposed to that usage. Again, some say that the *Vyavahara Sastra* (rules and civil judicature) is, like grammar, generally based on usage.'

Mitramisra has the following passage on the same subject, on pp. 18-19 of the *Viramitrodaya* (ed. Golapchandra Sarkar, 1879).

तथाच नयविवेके भवनाथः । लोकसिद्धिचार्जनं जन्मादि अत एव  
अनिन्द्यं प्रथमश्लोकधोविषयव्यवस्थितं ; तन्निबन्धनार्थाः स्मृतिव्याक-  
रणादि स्मृतिवत् ।

This passage may be rendered as follows :—

Accordingly too, in *Nayaviveka* of Bhavanatha :—

The means of acquisition such as birth and so forth, are derived from the practice of the world (*loka-siddham*) For, what has been impressed first on the mind of the world

(or on the mind of primeval men) cannot be objectionable, and *Smṛiti* aims at consolidating such impressions, like the *Smṛiti* of grammar and the like (which collect usage).

PAGE 20, LINE 4

### Kautilya's Superstition.

Kautilya's 'superstition' comprised not only 'the fear of the unknown' but was similar to that of the ancient Greek 'who believed that every stream or glen had its nymph, whose kindly office men might secure by paying them certain honours'. For a refined definition of 'superstition', see R. Barrett, *Psychical Research* (1911), p. 15.

PAGE 20, LINES 12-13

### Curriculum of Regal Studies.

Kautilya's list of subjects to be studied by the prince is to be found in the *Arthasastra*. The three R's are to be learned before investiture with the sacred thread. Vedic and philosophical studies (*trayi* and *anvikshaki*) are to follow initiation. Vedic study had apparently to include some study of the six *vedangas*, viz. phonetics (*siksha*), ceremonial rules (*kalpa*), grammar (*vyakar na*), exegetics (*nirukta*), metrics (*chandas*). *Anvikshaki* is taken by Kautilya to include only *Samkhya*, *Yoga* and *Lokayata*, and not in the more general sense of Philosophy, which Kamandaka (II, ii) would assign to it. Somadeva, p. 10, would appear to include Logic and Ethics along with Metaphysics under *Anvikshaki*; and Sukra (I, line 305) includes both Logic and Vedanta under it. The prince has also to learn, under Government officers of position, the subjects of *Varta* (i.e. commerce, agriculture and cattle-raising), and *Dandaniti*, under those expert both in its theory and practice. After his sixteenth year he has to learn all that appertains to the profession of arms, and to become conversant with secular history, traditions, *Dharmasastra* and *Arthasastra*.

Somadeva adds to the regal curriculum Instrumental Music (both ordinary and martial), the knowledge of precious stones (*ratnapariksha*), and Erotics (*Kama-sastra*).

In the following passage defining the contents of Trayi, Sukra gives it a very wide scope (I, ll. 309-310):—

अंगानि वेदाश्चत्वारो मोमांसा न्यायविस्तरः ।

धर्मशास्त्रपुराणानि त्रयीदं सर्वमुच्यते ॥

PAGE 20, LINE 24

### The Mahabharata and the Social Contract.

See section 59 of the *Santi Parva* of the *Mahabharata*, (P. C. Ray's Translation, vol. i, page 179 ff.). A slightly different version is to be found in the same *Parva* (*ibid.*, Ray, p. 216 ff.) and this is identical with Kautilya's account as well as with that postulated in the *Raghuvamsa* I, 11.

PAGE 21, LINE 1

### The 'Civil List' in the 'Arthasastra'

The elaborate list given by Kautilya, on pages 245-6, is interesting for the light it throws on the relative values attached to the work of various functionaries in an elaborate administration, such as he had in view or was possibly describing from actual conditions. The rates of annual pay vary from 48,000 to 250. Ample establishments are recommended for the garrisoning of forts, etc., and for the maintenance of public buildings, etc. Pensions and special consideration are to be given and shown to the children and wives of those who die on duty, and to their dependants, if they happen to be infants or aged or diseased persons. Similar concessions are to be shown to public servants in cases of sickness, funerals, and child-birth.



### Absence of direct reference to Buddhism in the 'Arthasastra'

The following passage (p. 199), जीवकादीन् वृषलप्रव्रजितान् देवपितृकार्येषु भोजयत्तश्चो दण्डः, is stated by Mr. Shama Sastri (note to p. 251 of his recent translation of the *Arthasastra*) to appear in the Munich Manuscript of the work with the variation शाक्यजीवकादीन् for जीवकादीन्, at the commencement.

Accepting the Munich text, Mr. Shama Sastri translates the passage thus:—'When a person entertains, in dinner dedicated to the gods or ancestors Buddhists (*sakya*), Ajivakas, Sudras and *exiled persons* (*pravrajita*) a fine of 100 *panas* shall be imposed.'

The word *Jivaka* means, according to V. S. Apte, any mendicant, who lives by begging, or a Buddhist mendicant, and it may also mean an usurer or a snake-catcher.

*Pravrajita* may mean either an exile or an ascetic recluse. *Vrshala* means a Sudra, or it may also mean a sinner or an outcaste.

If the Munich variants be taken, *Ajivaka* would be a reference to the ancient penitential order, different from the Buddhists and Jains, who were well known during the early Buddhist period, and for whose use Asoka had the Barabar caves excavated (see Mr. V. A. Smith's '*Early History*', p. 165). A Buddhist version of their teachings is given in Rhys Davids' *Dialogues of the Buddha*, 1899, p. 71.

In view of the prevalence of the sect of Ājivakas in the Mauryan period, it seems to me to be not improbable that the correct text is *Ājivakādīn* instead of *Jivakādīn*, which, if taken in the sense of an 'ascetic', would be tautological. But the prefixing of the word *Sākya* to *Ājivakādīn* appears to me to be clearly an interpolation of *later* times, as *Sākya* means the Buddha or a member of his family or of the tribe of the Sakyas, and cannot mean a Buddhist generally—as understood by Mr. Shama Sastri.

It was regarded as a meritorious thing, and it is still so regarded, to feed a *sanyasin* (recluse) and even in very exceptional cases to get him to partake of the meals at a *sraddha* (ceremony to the manes). Kautilya's precept gives, the exception to this practice, *confining* the custom to those recluses, who were not Ajivakas (or Jivakas, i.e. professional mendicants, if the Mysore text be preferred) or had become recluses from the *Sudra* caste. The horror among orthodox Brahmans at Sudras becoming *sanyasins* or performing austerities, would be clear to readers of Bhavabhuti's play, *Uttara-rama-charita*, Act II, referring to the execution of the *Sudra* ascetic Sambhuka.

My version of the passage would be somewhat as under:—

'A fine of a hundred (*panas*) to the person who gets *Sudra* or depraved ascetics like the Ajivakas (or, Jivakas, i.e. professional mendicants who are also ascetics) and others, to take meals at ceremonies dedicated to the gods or to the manes'.

This interpretation seems to me to be not only more natural than the one proposed by Mr. Shama Sastri, but more in consonance with the views of Kautilya. For, it may be asked why should *exiles*, for instance, be classed with ascetics. My version also harmonizes with the parallel passage in *Yajnavalkya*, II, 235.

The ordinary sense of the term *Pravrijita* is only an ascetic, as for instance in the following *sloka* from *Yadavaprakasa's Vaijayanti*, (ed. Oppert, 1893, p. 96):—

यतिः पाराशरी भिक्षुः परिव्राट् पाररक्षिकः ।

अनाशकी प्रव्रजितः कर्मन्दी मस्करो यती ॥

*Yadavaprakasa* (circa eleventh century A.D.) uses the words *Jivaka* and *Ājīva* to signify a *Jain* ascetic (see p. 202 and p. 206). This is natural, as in his days in Southern India, the Jains undoubtedly had the best known, if not the most numerous, body of ascetics.

In any case, the passage of Kautilya cannot be held to contain a *direct* reference to Buddhists or Jains. In the

absence of the conjunction च, the word जीवकादीन has to be taken in the passage, as qualifying *vrishala-pravrijitan*, and there is as little warrant for Mr. Shama Sastri's taking the two words as indicating *different* sets of persons, as there is for his taking *vrishala-pravrijitan* to signify 'Sudras and exiles'.

PAGE 21, LINES 9-10

### Jainism and Suicide.

The Jains have always held religious suicide (*santharo*) to be a meritorious act, and it is said that even now occasionally Jain monks and nuns voluntarily take the vow of abstinence from food (*anasana*) and die of starvation. One of the earliest cases of religious suicide known to Jain tradition is that of Mahavira's parents. (See *Acharanga-Sutra* in S.B.E. vol. XXII, p. 194). It is one of the paradoxes of Jainism that the Jain holds simple (as contrasted with *religious*) suicide to be an almost inexpiable crime.

PAGE 21, LINES 12-13

See Kautilya, pp. 208 and 397, for the *use of the terms. Chaitya and Stupa.*

PAGE 21, LINE 22

### Prohibition of castration of animals

See Kautilya, p. 199 :—

क्षुद्रपशुवृषाणां पुंस्त्र्योपधातिनः पूर्वस्साहसदण्डः ।

See also, Asoka's Pillar Edict V. (Mr. V. A. Smith's 'Asoka' first edition, p. 151).

PAGE 21, LINE 25

### Prohibition of Sanyasa

See Kautilya, page 48: 'Whoever becomes an ascetic without first making adequate provision for wife and children

shall be liable to the first heavy amercement; and similarly he who makes a woman an ascetic'.

PAGE 22, LINE 5

**'King of Men'**

It has been suggested to me by a Sanskrit scholar that this round-about expression has probably been used deliberately, in view perhaps of the king being other than a Kshatriya. See, *infra*, p. 47.

PAGE 22, LINE 10

See Mr. Bhandarkar's article on, '*Foreign Elements in the Hindu Population*', pp. 7-37, *Indian Antiquary*, vol. xl (1911).

PAGE 23, LINE 12

See Kautilya, p. 64 :—गणनिकयानि आषाढौ आगच्छेयुः.

PAGE 23, LINES 25-7

Compare the following precept of Sukra: 'A ruler should not give up even an *angula* of land in such a way as to part with rights to it; he may, however, give lands for subsistence during the lifetime of the grantee.' (I, 421-2).

PAGE 24, LINE 25

See Mr. Vincent Smith's *Early History of India* (1904), pp. 130-31.

PAGE 23, LINES 27-31

**Military Organization.**

See Kautilya, Book IX, pp. 337-61 and Book X, 361-75. It is noteworthy that an Army Medical Corps with nurses is asked to be provided (p. 367). A passage appears to imply

that besides sappers and miners, there was possibly a corps of airmen (p. 367):—

धान्वनवननिम्नस्थलयोधिनां खनकाकाशदिवारात्रियोधिनांच  
पुरुषाणां.

The flower of the army is said to consist of the best infantry, and even more of cavalry and the elephant corps. (p. 371). The value of a national militia, mercenary troops and veterans, as well as of irregulars is discussed in pp. 340-44. The value of the elephants in war is signified on p. 50, where it is stated that the victories of kings depend upon elephants, and where the punishment of death is provided for the person who slays an elephant.

Kautilya's views in regard to the functions of the various arms of war are paralleled by those of Vaisampayana.

PAGE 24, LINE 6

### **Tribal Aristocracies.**

See Kautilya, Book XI, pp. 376-9.

PAGE 25, LINE 11

### **The Royal Hunt.**

For the chase as a royal amusement, see Megasthenes, fragment 27. For Asoka's abolition of the royal hunts, in 259 B.C., see his Rock Edict 8.

PAGE 25, LINE 14

### **Floods and Fires.**

See the following passage of Kautilya (p. 329):—

अग्न्युदकयोः अग्निपीडनं अप्रतिकार्यं; सर्वं हि च शक्योप-  
शमनं तार्याबाधकमुक्तं उदकपीडनमित्याचार्याः ।

नेति कोटिल्यः—अग्निः ग्रामं अर्धग्रामं वा दहति; उदक-  
वेगस्तु ग्रामशतप्रवाहो इति ।

**Anger of the People.**

On the anger of subjects as a danger, see page 382.

On page 325, Kautilya mentions that kings, who lose themselves in anger, have often been known to have been killed in popular tumults. (प्रायशः कोपवशाः राजानः प्रकृतिकोपैः हताः श्रूयन्ते.) See also p. 352 :—' [in repressing (sedition) force is futile against the leaders of the people' (दण्डो हि महाजने क्षेप्तुं अशक्यः).]

Kautilya (pp. 253-4) refers to usurpation and abdication.

**Kautilya's Predecessors.**

Evidence of the intense intellectual activity of North India in the 'centuries preceding the invasion of Alexander, is available in abundance in the Jain and Buddhist *Suttas*, and, the somewhat remoter Upanishads, as well as in the existence of the ancient original *Sutras* of the philosophical schools (the *darsanas*) and of the schools of grammar and canonical precept. The descriptions of the Greek observers also reflect the mental stir of the age in India. It is only natural, therefore, to anticipate that such many-sided creative activity should have included discussions on polity. The ancient *Book of the Great Decease* (*Maha-pari-nibbana-sutta*) even records an occasion when the Buddha's views on the conditions of the prosperous working of the Vrijjian oligarchies were sought and obtained (Rhys Davids-*Buddhist Suttas*, vol. xi, S.B.E., pp. 3-6) These anticipations are confirmed by the data available in Kautilya's *Arthasastra*.

Kautilya mentions sixteen preceding writers by name, as well as, a seventeenth who is referred to always in the plural as *Acharyah* over a hundred times. He also refers to his own distinct point of view, in cases where apparently he desired to lay special stress on them, over seventy times. The theory that the latter are merely references by the pupils

of Kautilya to their Master's views when they revised his work, is rendered untenable by two circumstances:—(1) Kautilya claims to have written every syllable of the work—*sutra* as well as *bhashya* himself, (2) expressly with the wish to avoid any ambiguity in regard to his meaning or teachings (see *Arthasastra*, the last verse), and (3) similar expressions occur very frequently, as of personal views, in Vatsyayana's ancient *Kamasutra* (ed. Durgaprasad, 1900):

e.g. p. 72. तद्योषिन्मित्राश्च नागरकाः स्युः इति वात्स्यायनः.

and p. 84. अभियुक्ताहमनेनेति युवतिः इति वात्स्यायनः.

Of the writers quoted by Kautilya, two, viz. Ghotakamukha and Charayana are also referred to in Vatsyayana's *Kamasutra*. In regard to the school of Bharadvaja, to which Kautilya refers, it is noteworthy that Patanjali, the great grammarian, refers to the followers of Bharadvaja as authorities (see *Mahabhashya*, ed. Kielhorn, vol. I. pages 136, 201 and 291). The Parasaras, to whom Kautilya refers, are also known as a school of astronomers. Taken with the proofs of versatile knowledge to be found in our early *Sutra* and *Bhashya* literature relating to *Arthasastra*, *Vyakarana*, and *Kamasutra*, these facts may tend to support the hypothesis that the 'schools' were engaged in giving instruction in a *circle of sciences* and were not composed of specialists, who confined themselves to *single* subjects or sciences.

Vatavyadhi, the name of one of the previous writers referred to by Kautilya, is also one of the names of Uddhava, the friend and relation of Krishna, according to the Puranas. He is there spoken of as an adept in policy and administration, and this view has been accepted by the poet *Magha*, who in his *Sisupalavadha*, makes him a minister of Krishna.

PAGE 27, LINE 16

### Philological Data for the date of Kautilya's 'Arthasastra'.

On page 71, Kautilya states that the alphabet consists of sixty-three letters. (अकारादयो वर्णाः त्रिषष्टिः ।)

My colleague, Mr. A. R. Raja Raja Varma, M.A., whose scholarly treatise on *Vyakarana* is well known, states that the number given by Kautilya would agree with those given by the Vedic *Patisakhyas*, and not with the teaching of Panini, whose fourteen alphabetical *sutras* enumerate only forty-two letters, viz. nine vowels and thirty-three consonants. The following passages of the *Siksha*, appended to Panini's work, do indeed describe the alphabet as sixty-three or sixty-four in number, but, the attribution of the *Siksha* to Panini is considered by Mr. Raja Raja Varma as unjustifiable :—

त्रिषष्टि श्वतुर्षष्टि र्वा वर्णाः शंभुमते मताः ।

प्राकृते संस्कृते चापि स्वयं प्रोक्ताः स्वयंभुवा ॥

स्वरा विंशतिरेकश्च स्पर्शानां पंचविंशतिः ।

यादयश्च स्मृताह्यष्टौ चत्वारश्च यमाः स्मृताः ॥

अनुस्वारो विसर्गश्च ङकः णौ चापि पराश्रितौ ।

दुःस्पृष्टश्चेति विज्ञेय लृकारः प्लुत एव च ॥

2. Kautilya in the following passage, classifies the parts of speech as four :—

वर्णसंघातः पदं । तच्चतुर्विधं नामाख्यातोपसर्गनिपाताश्चेति ।

तत्र नाम सत्त्वाभिधायि । अविशिष्टलिङ्गमाख्यातं क्रियावाचि । क्रिया-  
विशेषिताः प्रादयः उपसर्गाः । अव्ययाश्चादयो निपाताः ॥

These may be compared with the following passage from the *Pratisakhya* of (XII. 5) :—

नामाख्यातमुपसर्गो निपातश्चत्वार्याहुः पदजातानि शब्दः ।

तन्नाम येनाभिदधाति सत्त्वं तदाख्यातं येनभावं स धातुः ।

प्राभ्या परा निर्दुरनु व्युपाप सं परि प्रति न्यत्यधि सूदवापि ।

उपसर्गो विंशतिरर्थवाचकाः सहेतराभ्यामितरे निपाताः ॥



क्रियावाचकमाख्यातं उपसर्गो विशेषकृत् ।

सत्त्वाभिधायकं नाम निपातः पादपूरणः ॥

निपातानामर्थवशात् निपातनात् अनर्थकानां इतरे च सार्थकाः ।

नेयंत इत्यस्ति संख्येह बाङ्मये मिताक्षरे चाप्यमिताक्षरे च ये ॥

The same division is adopted by Yaska ; see for instance the following passage at the commencement of his *Nirukta* :—

तद्यान्येतानि चत्वारि पदजातानि नामाख्याते चोपसर्गनिपाताश्च तानोमानि भवन्ति । तत्रैतन्नामाख्यातयोर्लक्षणं प्रदिशन्ति भावप्रधानमाख्यातं सत्त्वप्रधानानि नामानि । तद्यत्त्रोभे भावप्रधाने भवतः पूर्वापरोभूतं भावमाख्यातेनाचष्टे व्रजति पचति इत्युपक्रमप्रभृति अपवर्गपर्यन्तं मूर्तं सत्त्वभूतं सत्त्वनामभिः ब्रज्या पक्तिरित्यद इति सत्त्वानामुपदेशो गोरश्वः पुष्पो हस्तोति भवतोति । भावस्यास्ते सेते व्रजति तिष्ठतोति ॥ इन्द्रियनित्यं वचनमौदुम्बरायणः.

See also his observations (page 139 of the Ajmir edition of the *Nirukta*) on the following *Rik* :—

चत्वारि वाक्परिमितापदानि तानिविदु ब्राह्मणा ये मनोषिणः ।

गृहा त्रीणि निहिता नेङ्गयन्ति तुरीयं वाचो मनुष्या वदन्ति ॥

Mr. Raja Raja Varma states that according to Panini (e.g. सुतिङन्तं पदम् I-4-14), and followers of Panini like Amara (e.g. सुवन्तं चतिङन्तं च पदम्), there are only *two* parts of speech. Mr. Raja Raja Varma is consequently of opinion that Kautilya's classification is distinctly *pre-Paninian*.

3. Kautilya uses the word अव्यय in the masculine, while, as will be evident from the following, Panini treats the word as of the neuter gender :—स्वरादि निपातमव्ययम् I-1-37 ; स्वव्ययम् I-1-6 and ह्येवाव्ययं लपविशम् I-3-5.

In the *Linganusasanam*, appended to editions of Panini, it is stated that the word *Avyaya*, classified therein under the masculine gender, may be *also* of the neuter gender :—

५४. गोमयकषायमलयान्वयाव्ययानि नपुंसके च ।

The *Linganusasanam* is ascribed to Panini, but its authenticity as a work of Panini is emphatically denied by many grammarians.

From the above data it may be presumed that Kautilya's work was composed during a period in which Panini's work was either unknown or had not attained wide celebrity and influence. If the date now generally ascribed to Panini, viz. *circa* 350 B.C. is correct, the above inference would prove valid.

It is significant that Patanjali (*circa* 150 B.C.) adopts in the *Mahabhashya* (Vol. I, p. 3, ed. Kielhorn), the four-fold classification of the parts of speech, which Panini apparently rejected.

PAGE 27, LINE 16

### Astronomical data for the date of Kautilya's 'Arthasastra.'

These are contained in the twentieth chapter of the second book of the *Arthasastra* (pp. 106-9). They were examined for me, before the lectures were delivered, by Professor Raja Raja Varma, M.A. The position of the solstices, as well as the occurrence of intercalary months and other items of the luni-solar calendar, in *Arthasastra*, are in agreement with the conclusions of the *Vedanga Jyotisha*. Further, the *Arthasastra* refers to the Vedic quinquennial cycle (p. 109), taking the word *yuga* in the sense of a term of five

years. (cf. the observations on the five-year cycle in Weber's *History of Indian Literature*, pp. 112-3). Kautilya states that days and nights can be shorter or longer than the normal length of fifteen *muhurtas* (twelve hours) by three *muhurtas* (i.e. two hours and twenty-four minutes). This would be possible only in latitude  $35^{\circ} 27'$ , North,—almost the exact position, to take a concrete instance, of the great Nanga Parbat in Northern Kashmir. Kautilya's statement that no shadow is cast at noon in the month of *Ashadha* shows, on the other hand, conditions possible *only* in the tropics.

Curiously, the thirty-sixth and the twentieth parallels would give roughly the northern and southern limits of the Mauryan Empire in the days of Chandragupta.

Subsequent to the delivery of the Lectures, the same astronomical data were, at my request, examined by M.R. Ry., Dewan Bahadur, L. D. Swamikannu Pillai, Avargal, M.A., B.L., LL.B., whose observations, as communicated to me in a letter, dated May 31, 1915, are given below:—

'I have been looking into those time references in Kautilya's *Arthasastra*.

'The first statement is that the equinox is in the months of Chaitra and Asvayuja. That is, the vernal and the autumnal equinox respectively. The statement that 'after the period of six months it increases or diminishes by three *muhurtas*' is deserving of notice. I take it this means that during six months from Chaitra to Asvayuja or from Asvayuja to Chaitra the length of the day-and-night period (*ahoratri*) may vary to the maximum extent of three *muhurtas* or one and a half *muhurtas* (= seventy-two minutes) before 6 a.m. and one and a half *muhurtas* after 6 p.m. (local time). It will be seen from Table XIII appended to my *Indian Chronology* that this condition will be satisfied only *above* the thirtieth parallel of latitude, where a maximum variation of about seventy minutes is attained in the moment of sunrise.

'The statement made lower down in the same chapter of *Arthasastra*, that no shadow is cast at midday in the month of *Ashadha* indicates some latitude between  $23\frac{1}{2}^{\circ}$  and the

equator, as a shadowless sun at midday is not possible outside the tropics. Above the tropics the sun is always due south at midday and a shadow must be cast. I am inclined to think that either the book was written within the tropics or that if it was written within the temperate zone, the reflexion that no shadow is cast at midday in *Ashadha* must be an interpolation in a southern text.

‘It would be worth while to compare carefully the statements made in *Arthasastra* about the solar and lunar months, solar and lunar years, and the intercalary months with the *Jyotisha Vedanga*. One thing is clear, the solar year of the *Arthasastra* is a year of 366 days and a cycle of five such years (1830 days) was supposed to contain sixty-two lunar months. This is almost exactly the *Jyotisha Vedanga* idea. Burgess, however, in his ‘*Notes on Hindu Astronomy and the History of our knowledge of it*,’ contributed to the *Journal of the Royal Asiatic Society*, 1893, says that the elements of the *Jyotisha Vedanga* system are that sixty-one months of thirty civil days each are equal to sixty-two lunar months or sixty-seven sidereal revolutions.

‘In the *Arthasastra*, the solar month consists not of thirty days but of thirty and a half days; for it is stated ‘thirty days and nights with an additional half a day makes one solar month.’ Again ‘the sun carries off one-sixtieth of a whole day every day and thus makes one complete day in every two months’. Apparently, by the time of the *Arthasastra*, the system of solar months of thirty days each, and of an intercalation of one solar month after every five years, had been replaced by solar months consisting *alternately* of thirty and thirty-one days.

‘This is not the only inroad into the *Jyotisha Vedanga* system which is testified to by the *Arthasastra*. According to the latter, two *nalikas* make one *muhurta*, and fifteen *muhurtas* make one day or one night. A day and night consisting of thirty *muhurtas* or sixty *nalikas* is of the very essence of the sexagesimal system, and Burgess says that the sexagesimal system was borrowed from the Greeks.—(*Journal of the Royal Asiatic Society*, 1893, p. 753).

'The lunar month of *Arthasastra* consists of twenty-nine and a half days which is expressed by saying that for every thirty days the moon loses one-half day or one-sixtieth day for every day. The lunar year consisting of  $29\frac{1}{2} \times 12 = 354$  days is less than 360 by 6 days whereas the solar year is more than 360 by 6 days. The difference between the solar and lunar years of twelve days for every solar year becomes thirty days in two and a half years and sixty days in a *yuga* of five years. These periods of thirty days and sixty days are called *adhimasas*.

'My general impression is that the *Arthasastra* was written somewhere *above* the thirtieth parallel of latitude, that it follows the *Vedanga Jyotisha*, with variations in the direction of a sexagesimal system, which Burgess would ascribe to Greek influence.'

The conclusions of Professor Raja Raja Varma and of Mr. Swamikannu Pillai are thus substantially in agreement. The former is positive that the astronomical knowledge displayed in the *Arthasastra* does not indicate any Greek influence. Dr. Burgess (*J.R.A.S.*, 1893, p. 752) considers the *Jyotisha Vedanga* to preserve for us the main features of Indian astronomical knowledge *before* it was modified or affected by that of the Greeks. And, it is to this work that the astronomical ideas of the *Arthasastra* show the greatest affinity. No proof has been assigned by Dr. Burgess for regarding the sexagesimal system as *exclusively* Greek in origin. It is *conceivable* that in this matter, just as in Etymological science, (to which Max Müller, '*Ancient Sanskrit Literature*, 1860, p. 161, drew attention) *independent* development may have anticipated in India, ideas which later on came to be identified with the discoveries of the Greeks.

In view of the data of the *Arthasastra* indicating the composition of the work in a region lying *above* the thirtieth parallel, the tradition (given in the old *Mahavamsa-Tika*) which makes Kautilya out to have been a Brahman of *Takshasila* (identified by Sir Alexander Cunningham, *Ancient Geography of India*, 1871, pp. 105-5, with a site near Shah-

dheri, very nearly on the thirty-fourth parallel), gains a special significance.

PAGE 26, LINES 2-5

See Maine's *Ancient Law*, p. 15 (ed. Pollock, 1906).

PAGE 29, LINE 13

### Conflict of Laws in Ancient India.

•(A) In regard to laws by which foreigners should be governed, Kautilya would apparently apply his general rule regarding the enforcement of usage and custom. The following passage in the *Arthashastra*, p. 98,

अनभियोगश्च अर्थेषु आगन्तूनां, अन्यत्र सम्प्रोपकारिभ्यः ।

has been somewhat arbitrarily translated, irrespective of the context, by Mr. Shama Sastri thus: 'Foreigners importing merchandise shall be exempted from being sued for debts unless they are (local) associations and partners.'

If this rendering be correct, Kautilya's rule would extend to foreigners a *wide* exemption from liability to be sued for their debts. Such a rule could hardly be reconciled with the spirit of Kautilya's teaching. I would interpret differently the passage in question, especially as it comes immediately after a recommendation for the grant of remissions or rebates of customs dues or trade taxes, in favour of sailors and foreign merchants: 'The rule (of remission) is inapplicable to the goods of occasional visitors (आगन्तूनां) unless they happen to be connected with local corporations.'

(B) The principles on which conflicts of rules of law, or conflicts of authorities, were settled are indicated by Kautilya as well as by several *Dharma Sastras*. The question of such 'reconciliation' was an important topic of the Mimamsa interpretation of Hindu Law. See, for instance Golap Chandra Sarkar Sastri's *Hindu Law of Adoption*, 1891, p. 85; West

and Bühler's *Digest of Hindu Law*, 1884, vol. i, p. 11; and Mr. P. R. Ganapati Aiyar's recent treatise on Hindu Law, Chapters VII and VIII.

The texts on the subject in Kautilya, Yajnavalkya, and Narada depend for their correct interpretation on the proper understanding of the terms *Nyaya*, *Vyavahara* and *Arthashastra*.

I would render the word *nyaya* by 'equity', or by 'logic', or by 'reason'. The drift of the maxims of law in which the word occurs will not be largely modified by the acceptance of any of the three senses suggested.

It is not so, however, with the expression *vyavahara*. In the following passage from the *Vyavaharamayukha*, Bhatta Nilakantha clearly understands by *vyavahara* a judicial act, proceeding or procedure :—

विप्रतिपद्यमाननरान्तरगताज्ञाताधर्मज्ञापनानुकूलो व्यापारो व्यवहारः ।  
वादिप्रतिवादिकर्तृकः संभवद्भोगसाक्षिप्रमाणको विरोधि कोटिव्यव-  
स्थापनानुकूलो वा व्यापारः सः ।

'*Vyavahara* is the act which helps to make clear the 'inexplicit violation of canon (*dharma*) that has divided the 'contending parties in a dispute, or it is a proceeding of the 'plaintiff and the defendants involving testimony, possession 'and witnesses, and aiming at the settlement of the conflicting 'issues between the parties.'

Notwithstanding this definite interpretation of *Vyavahara*, V. N. Mandlik, who had edited both the *Vyavaharamayukha* and the several commentaries on Manu, translated the expression by 'the practice of the old', when rendering Yajnavalkya, II. 21. :—

स्मृत्योः विरोधे न्यायस्तु बलवान् व्यवहारतः ।

अर्थशास्त्रात् बलवद् धर्मशास्त्रमिति स्थितिः ॥

Dr. Bühler has also erred when he rendered the expression in the following passages of Manu (VIII. 163, 164 and

167) by the words 'contract' and 'agreement' (*Laws of Manu*, 1886, pp. 283 and 284):—

मत्तोन्मत्तात्ताध्यधोनैः बालेन स्थविरेण वा ।

असंबद्धकृतश्चैव व्यवहारो न सिध्यति ॥ १६३ ॥

सत्या न भाषा भवति यद्यपिस्यात् प्रतिष्ठिता ।

बहिश्चेद्भाष्यते धर्मान्नियताद्व्यावहारिकात् ॥ १६४ ॥

कुटुम्बार्थे ऽध्यधोनोऽपि व्यवहारं यमाचरेत् ।

स्वदेशे वा विदेशे वा तं ज्यायान्न विचालयेत् ॥ १६७ ॥

The very commentaries which Bühler used in preparing his translation of Manu go against this narrowing of the sense of *vyavahara*. Thus, Medhatithi (*circa* ninth century A.D.), states that *vyavahara* is a synonym for an act, (कार्यपर्यायो व्यवहारशब्दः), while Sarvajnanarayana (*circa*, fourteenth century A.D.), and Raghavananda (*circa* sixteenth century A.D.) take it similarly as implying generally a transaction. (व्यवहार ऋणदानादिविषयकः) (See Mandlik's *Manu, with Seven Commentaries*, 1886, pp. 9, 78, 79). It is significant that Dr. E. W. Hopkins, (*Ordinances of Manu*, by A. C. Burnell and E. W. Hopkins, 1891, pp. 204 and 205) has rendered the term, in the same passages correctly, by using the expression 'business transaction'.

There is, of course, a more specialized sense in which *vyavahara* has been used by Sanskrit writers as the equivalent of judicial proceeding or procedure. This is indicated in a *sloka* of Katyayana, which gives an ingenious, if unconvincing, etymology of the word :—

वि नानार्थेन संदेहः हरणं हार उच्यते ।

नानासंदेहहरणात् व्यवहार इति स्मृतः ॥

An instance of the result of Bühler's incorrect translation of *vyavahara* may be given. Mr. Narendranath Law in his



valuable study of Kautilya's *Arthashastra* (*Studies in Ancient Hindu Polity*, vol. i, 1914, pp. 122-3), attributes to Kautilya such statements as the following:—‘A contract should not transcend sacred law’.

The misunderstanding of the term *Arthashastra* is to some extent explicable, since the conceptions regarding the nature, content and trend of *Arthashastra* were somewhat hazy before the ‘discovery’ of its literature. Thus Dr. Jolly translated *Arthashastra*, in the quotation of Narada given below, by ‘rules of jurisprudence’. (*Minor Law Books*, S.B.E., xxxiii, 1889, p. 15). V. N. Mandlik translated the same word by ‘moral laws’ (see his translation of the *Vyavaharamayukha*, p. 5, ll. 15-16)! He made a more serious mistake when he translated (*ibid.*, p. 203, ll. 11-12) the maxim of Yajñavalkya on the superiority of *Dharma Sastra* to *Arthashastra*, अर्थशास्त्रात् बलवद्दर्मशास्त्रमिति स्थितिः, by—‘but the rule is that law

is stronger than equity’—taking *Arthashastra* to signify ‘equity’! The contradiction between the first half of Yajñavalkya’s sloka (II, 21) and this interpretation of its second half appears to have escaped his notice.

I give below the relevant passages on the subject in Kautilya, Yajñavalkya and Narada, with my renderings. The first, second and fourth slokas in the passage from Kautilya are found with an important modification, in Dr. Jolly’s edition of *Naradasmṛiti*. The difference consists in this that among the fourfold bases of lawsuits, contrary to Kautilya’s precept, ‘each following’ says Narada ‘is superior to the one previously named’. The three slokas are numbered 10, 11 and 39 in Dr. Jolly’s translation of Narada (1889).

The relevant passages in Kautilya on the subject are:—

धर्मश्च व्यवहारश्च चरित्रं राजशासनम् ।

विवादार्थचतुष्पादः पश्चिमः पूर्वबाधकः ॥

अत्र सत्यस्थितो धर्मो व्यवहारस्तु साक्षिषु ।

चरित्रं संग्रहे पुंसां राज्ञामाज्ञा तु शासनम् ॥

अनुशासत् हि धर्मेण व्यवहारेण संस्थया ।  
 न्यायेन च चतुर्थेन चतुरन्तां महीं जयेत् ॥  
 संस्थाया धर्मशास्त्रेण शास्त्रं वा व्यावहारिकम् ।  
 यस्मिन्नर्थे विरुध्येत धर्मेणार्थं विनिश्चयेत् ॥  
 शास्त्रं विप्रतिपद्येत धर्मन्यायेन कस्यचित् ।  
 न्यायस्तत्र प्रमाणं स्यात् तत्र पाठोहि नश्यति ॥

• These verses I would render as follows :—

‘Canon, judicial procedure, usage and royal edicts form the fourfold basis (literally, the four feet) of the subject of litigation. In these what precedes overrides (in cases of conflict) what follows. Among them, truth is the foundation of canon, testimony of procedure, general acceptance of usage, and regal sanction of edicts. . . . If he (the king) governs (in accordance with) the canon, procedure, usage, and equity, he will, with these four, conquer the earth to its four limits. Wherever usage and canon, or the science of affairs (*vyavaharikam sastra*) and canon, conflict with each other, let the meaning be determined by reference to the canon, but wherever the science (of affairs or procedure) is divided by conflict of equity and canonical precept, then the standard of authority is set by equity, and any rule opposed to it loses its validity’.

The principles on which conflict of laws have to be settled are set forth by Yajnavalkya in the passage (II, 21) already quoted, which may be translated thus :—

‘In the conflict of two canonical law books (*Smṛiti*) the equity of affairs (*vyavahara*) prevails. Further it is the rule that the science of canonical law (*Dharma Sutra*) is stronger than *Arthasastra*.’

*Naradasmṛiti* (circa fifth century A.D.) has a similar maxim (I. 99) :—

यत्र विप्रतिपत्तिस्स्यात् धर्मशास्त्रार्थशास्त्रयोः ।

अर्थशास्त्रोक्तमुत्तुज्य धर्मशास्त्रोक्तमाचरेत् ॥

See Maine, *Ancient Law*, Chapters II and III.

See Maine's *Ancient Law*, Chapter III, Pollock and Maitland *History of English Law*, vol. i, pp. 12-35, and especially, pp. 132-5, and Prof. Vinogradoff—*Roman Law in Medieval Europe*, 1909, *passim*.

### Barbarian invaders and older civilizations

See Frederic Harrison's *Byzantine History in the Early Middle Ages*, 1900, p. 14, where he speaks of the impression, made on all foreigners who visited Constantinople down to the eleventh century by the complex and organized civilization of the Eastern Empire.

See also Dr. Hodgkin's *Italy and her Invaders* vol. v, 1895., p. 267, for the passage quoted.

Prof. Bury, *History of the Later Roman Empire*, vol. ii, 1889, p. 313, *note*, has also drawn attention to the fascination exercised by New Rome upon the western sovereigns throughout the eighth and the two preceding centuries. These kings 'considered themselves, not co-ordinate with, but subordinate to, the Roman Emperors in dignity'. It is also on this account that proposals for marriage alliances between Charles the Great and the Imperial family were made. (See Hodgkin, *ibid.* vol. viii, pp. 12, 210 and 245).

Similar instances in ancient Indian History are easily recollected in the pride, with which the early Imperial Guptas mention their connexion with the Lichchhavis, and in the exaggerated language of praise used by Bana, the courtier of Harshavardhana, in speaking of the Maukhari princes of Kanauj, into whose family the sister of Harshavardhana married, e.g.—

“भूमृन्मूर्ध्नि स्थितोपि माहेश्वरःपादन्यास इव सकलभुवननम-  
स्कृतो मौखरो वंशः,” (*Harshacharita*, ed. Führer, 1909, p. 200).

There could be no comparison in point of *strength* between the Maukharis and the family of Harshavardhana, but it is evident, from the suffix '*varman*' appended to the names of the princes of the Maukhari line, that they claimed to be Kshatriyas, while Harshavardhana was not a Kshatriya, but is said to have been a member of the Vaisya caste (Beale's *Si-yu-ki*, vol. ii, p. 247 : and M. L. Ettinghausen's '*Harshavardhana*', Louvain, 1906, pp. 20-21).

PAGE 30, LINE 24

### Épigraphic testimony to the influence of 'Dharma-sastra', etc.

These are abundant. For instance, see *Epigraphia Indica* vol. iii, pp. 80-81, vol. iii, p. 322 (inscription dated A.D. 526-7) vol. iv, p. 288 (A.D. 958), vol. iv, p. 346 (A.D. 812), vol. vi p. 349 (A.D. 813), vol. vi, p. 20, vol. vi, p. 178 (A.D. 178) vol. vi, p. 217 (A.D. 1057), vol. vi, p. 218, (the headman of a village is compared to the lawgiver Manu !), vol. ix, p. 95 (A.D. 1061-2), vol. IX, p. 326 (*circa* A.D. 1125).

See also, *Indin Antiquary*, vol. ix, p. 48, vol. viii, p. 97, and p. 303 (A.D. 571), vol. xvii, p. 198 (Dadda V, a ruler of the seventh century, said to have mastered the precepts of Manu).

See further, *Gupta Inscriptions* (ed. Fleet., Corpus Inscriptionum Indicarum, vol. iii, 1889), p. 147 (A.D. 532-3), p. 168 (A.D. 571-2), and p. 182 (A.D. 766-7).

Refer also to *Epigraphia Carnatica*, vol. v, p. 23 (A.D. 1160) and p. 151 (A.D. 1100, a Chalukya king 'walks in the path of Manu'), vol. ix, p. 39 (A.D. 797), and vol. ix, p. 73 (A.D. 517), vol. x, p. 78 (A.D. 890), vol. iv, p. 62 (A.D. 890), vol. iv, p. 60 (A.D. 797), vol. ix, p. 85 (A.D. 1050), Chapter vii, p. 50 (A.D. 1076), vol. vii, p. 59, (A.D. 1168), vol. vii, p. 89 (A.D. 1181), vol. vii, p. 146 (A.D. 1368), vol. xi, p. 13 (A.D. 947), vol. xi, p. 41 (A.D. 1171), vol. xi, p. 45 (A.D. 1268), vol. iv, p. 62 (A.D. 890), vol. xii, p. 115 (A.D. 482 ?)

The following references to Manu in the Ceylonese *Mahavamsa* are also of significance : Chapter 80, verse 9, Chapter 84, verses 1-2, Chapter 90, verse 56, Chapter 96, verse 27.

## PAGE 31, LINE 28

My reference is to one of the few blemishes in Mr. Vincent Smith's splendid *Early History*. See *ibid.* (1904, p. 117). The third edition which has appeared since these lectures were delivered, still retains the features criticized.

## PAGE 32, LINE 5

The reference is to Dr. L. D. Barnett's *Antiquities of India* (1913), pp. 96-109. See particularly page 98.

## PAGE 33, LINES 1 AND 2

See Tod's Rajasthan, *passim*, and Sir John Malcolm's 'Central India', Chapters XII. and XIII. B. H. Hodgson's papers on the 'Systems of Law and Police in Nepal' have been reprinted as section 12 of his 'Miscellaneous Essays relating to Indian Subjects' 2 vols. (published originally in J.R.A.S., Old Series, vol. i, pp. 45-57 and 258-280).

## PAGE 33, LINES 8-16

See Krishnaji Anant Sabhasad's Marathi 'Life of the Chhatrapati Sivaji', *Kavyetihasasangraha*, written about 1700).

See also M. G. Ranade 'Rise of the Maratha Power' and his Introduction to the 'Satara Rajas' and Peshwas' Diaries' (1902); and Scott Waring's 'History of the Maharattas,' 1810.

## PAGE 33, LINE 33

**The Rajatarangini and Indian Polity**

Kalhana's Rajatarangini has been edited by Sir Aurel Stein (1892), who also published (2 vols., 1900) a magnificent annotated translation of the famous chronicle. Between 1892 and 1896, the text was also published, with the continuations of Jonaraja, by Mahamahopadhyaya Durgaprasada.

The peculiar value of the Rajatarangini to the student of Historical Polity consists in Kalhana's statesmanly frame of mind and point of view. There is no other original record available for ancient Indian History that can be compared with the Rajatarangini for continuity of account, and insight. An additional circumstance making for the importance of the work is the scarcity of epigraphic records, to which Stein refers in his note on Rajatarangini (I, 15). Dr. Vogel's 'Chamba Inscriptions' have confirmed in many ways the statements in the Chronicle. Kalhana gives proper dates only from A.D. 813.

The evidence of Kalhana is best understood in regard to administrative details by reference to Chapter XVII, 'The Old Administration', of Sir Walter Lawrence's 'Valley of Kashmir' (1895).

Dr. Jolly has utilized the data in Rajatarangini for a paper on Historical Law as in the Rajatarangini (1895).

The passages of significance in the work in a study of Polity are:—Canto I, verses 118-120, 324, 367; II. 143, and 159; III. 385; IV. 53, 81, 82, 91, 92-105 (description of the trial of a sorcerer, accused of murder), 137-143 (five great offices of the Court 310, 320-3, 345-59 (Lalitaditya's 'Testament'), 481, 495, 512, 680, 588-9, 620-39 (Jayapida's oppression), 676-8, 691, and 719; Canto V. 22, 28, 32, 42, 64, 81, 109-12, 128-30, 160, 165-81 (Sankaravarman's fiscal oppressions), 192, 232, 238, 250-52 (selection of a ruler during an interregnum), 350 (regicide), 387, 397, 425, 448, 461-77 (Brahman assembly to elect a king); Canto VI. 14, 28 and 60 (Royal Court of Appeal), 38, 70, 73, 88, (regalia), 108-12 (State control of the castes), 126-129, 199; Canto VII. 210-11, 232-5, 65, 400, 506-14, 602, 659, 879, 896, 951, 1008 (Prayopa, vesa) 1225-6; Canto VIII. 51-65 (Uccala's good government), 82 (a queen allowed to share the throne), 136, 149, 181, 276, 278-312, 336, 371, (Consecration of an infant king), 428, 658, (Brahman self-immolation as a protest against misgovernment), 706-710 (habitual revolutionaries), 1542 and 2068 (Inner and Outer Cabinets), 2422, 3336 (abolition of fine for adultery), and 3338.

### **Chamba Inscriptions**

Chamba is a Native State situated in the Western Himalaya, and it has now a superficial area of 3,216 square miles. The density of population in the State is only about forty-one per square mile. 'Chamba, engirdled by her snow-clad mountain barriers, has, century after century, retained ancient traditions and institutions, which are only now gradually giving way to the irresistible onslaught of western civilization. . . . Chamba is still ruled by a descendant of the noble house whose scions fought in the civil wars of Kashmir side by side with Harsha and Sussala.' Dr. Vogel surveyed the area between 1902 and 1908, and published in 1911, the results of his investigations and study as a volume of the Archaeological Survey of India, under the title 'Inscriptions of Chamba State,—Part I—Inscriptions of the Pre-Muhammadan Period.' About fifty inscriptions are collected and edited in this volume. Three of these (Nos. 15, 25 and 26) epigraphs contain the titles of various official functionaries. Dr. Vogel has compared them with similar inscriptions of the Gupta and other epochs, and has summarized the information available from such records, in regard to some part of the old Indian administrative machinery, in a most valuable account. (*Ibid.*, pp. 120-136.)

See his 'A Peep into the Early History of India from the Foundation of the Maurya Dynasty to the Downfall of the Imperial Gupta Dynasty' (322 B.C. *circa* A.D. 500), (1900), especially the closing sections.

### **Usage and Custom as Law**

See Kautilya, p. 165 :—

देशस्य जात्याः संघस्यधर्मो ग्रामस्य वापि यः ।

उचितस्यात्तेनैव दायाधर्मं प्रकल्पयेत् ॥

See also Gautama, XI. 20; Apastamba, II. 15, i; Vasishtha, I. 17; Baudhayana, I. 2-12; Manu, II. 6, 12, 18; VII. 203; VIII. 41, 42, 46. See also Yajnavalkya, I. 7; I. 340-43; I. 360, 361; II. 5 and 186. Similar authorities may be quoted in abundance from later literature.

PAGE 38, LINE 1

See J. B. Bury—*The Constitution of Later Roman Empire*, 1910, p. 1.

PAGE 38, LINE 19

### Absolute Monarchy and Despotism

The word 'Despotism' is used here instead of 'Absolute Monarchy,' which Professor Bury prefers, in the sense assigned to it by Professor Bury. His definition differs somewhat from that of Sidgwick (*Development of European Polity*, p. 10): 'What is meant by calling him (i.e. an Absolute Monarch) 'absolute' is that there is no established constitutional authority—no human authority that his subjects habitually obey as much as they obey him—which can legitimately resist him or call him to account.'

For the older view making 'Despotism' imply the sovereign rule of one person, see Cornwall Lewis, *Use and Abuse of Political Terms* edition, Raleigh, 1898, p. 167.

PAGE 39, PARA. 1

For the views quoted, see *Modern Review*, January 1910, p. 70 (Mr. Dvijadas Datta), *ibid.*, vol. II. p. 38 and p. 350, and vol. III. p. 339 (Mr. Abinash Chanda Das), and *The Christian College Magazine*, 1894, p. 92 (Mr. P. Nagabhusanam).

PAGE 39, LINE 20

See Green's *Lectures on the Principles of Political Obligation*, edition, Bosanquet, 1901, pp. 99-102.



## PAGE 41, LINES 13-19

Compare, for instance, the teachings of Kautilya on the nature and end of the State with the Greek views on the subject, as expounded in W. L. Newman's Classical Introduction (i.e. vol. i) to his edition of 'Aristotle's Politics' (1887). Note specially the observations, *ibid.*, p. 50, p. 66, p. 83, p. 90, p. 251, p. 259, pp. 313-8, pp. 454-7 and p. 549.

## PAGE 42, LINES 1-4

It is instructive to compare the elaborate administrative system of the Persian Empire under Darius the Great with the machinery sketched out by Kautilya. See for the former Max Duncker, *History of Antiquity*, vol. vi, pp. 315-397 (translation., Abbott, 1882).

## PAGE 42, LINES 28-32

On the topics referred to, see Rajendra Lal Mitra's *Indo-Aryans*, vol. ii (1881), pp. 1-48 ('An Imperial Coronation in Ancient India'). The *Aitareya Brahmana* (ed. Haug, 1863), after describing the ritual of the *Mahabhisheka*, gives a list of ten kings who had been inaugurated by that rite, with the names of the priests who officiated at the ceremonies. For the procedure and ceremonial at coronations, etc., see the *Kausika-sutra* of the *Atharva Veda*, edited in 1890 by M. Bloomfield, for the American Oriental Society, as vol. XVI of its Journal; and especially, *ibid.*, XVII, 11-34 and XVII, 1-10 and XVI, 27-32.

Sukra (ed. Oppert, pp. 16-17) makes an elaborate classification of kings under seven heads according to their estimated revenue. His grades are: Mandalika, Raja, Maharaja, Swarat, Samrat, Virat, and Sarvabhauma. It is possible to conjecture the approximate area of territory that Sukra would have deemed as the qualification for each of these grades, from other passages in his work in relation to revenue.

PAGE 43, LINE 7

**Annual Royal Tour.**See *Sukra*, I, 751-752.

PAGE 43, LINE 16

**Trial in Sakuntala.**

See Act VI (Monier Williams' ed., pp. 236-59).

PAGE 44, LINES 1-4

See the *Arthasastra*, Book III, and especially p. 147, 149, 151, 196, 210, 212, 215, 218, 224 and 228.

PAGE 46, LINE 12

See H. Jacobi, *Jainasutras* S.B.E., 1884, p. 138. "A monk or a nun on the pilgrimage, whose road lies through a country where there is no king or many kings or an unanointed king or two governments or no government or weak government, should, if there be some other places for walking about or friendly districts, not choose the former road for their voyage. The Kevalin says: 'This is the reason: The ignorant populace might bully or beat, etc., the mendicants, etc.'"

PAGE 46, LINE 31

See Rhys Davids—*Buddhist Suttas*, S.B.E., 1881, pp. 3-6.

PAGE 47, LINE 4

See Rhys Davids' *Buddhist India*, 1903, pp. 17-41.

PAGE 48, LINE 19

**The Epicureans and the Social Contract Theory.**

See Stephen Leacock—*Elements of Political Science* (1906), p. 26: 'In the writings of Epicurean school we find the idea that laws and duties imposed on the individual by any

government, whether foreign or autonomous, are things which he accepts for his own well-being, entering thus into a kind of compact or understanding with the powers that be. On this foundation grew up the theory of the social contract.'

PAGE 48, LINE 29

See Rock Edicts 6 and 10, for example. (V. A. Smith's *Asoka*, first edition, 1901, pp. 121-3, and pp. 126-7).

PAGE 49, LINE 6

**Election of a king by the device of a festal car.**

See the English translation of the *Jataka*, ed. E. B. Cowell, 1895-1907, vol. iii, p. 157; vol. iv, p. 24; vol. v, p. 128 and vol. vi, pp. 25-82.

PAGE 49, LINE 7

**Horror of Anarchy.**

See the *Ramayana*, Second Khanda, Sarga 67. R. T. H. Griffith has quite appropriately designated this chapter, 'The Praise of Kings' (English Verse Translation, vol. ii (1871), pp. 264-8).

PAGE 49, LINE 10

**Effect of Interregnums.**

See *Apastamba*, XVI. 32. *Baudhayana*, I. 11, 21; *Vishnu*, XXII. 45.

See also Kautilya, p. 35:—

कुलस्य वा भवेद्राज्यं कुलसंधौ हि दुर्जयः ।

अराजव्यसनाबाधः शश्वदावसति क्षितिम् ॥

PAGE 50, LINE 1

'In Dr. Gierke's list of medieval publicists, beside the divines and schoolmen, stand great popes, lawyers, great reformers, men who were clothing concrete projects in

abstract vesture, men who fashioned the facts as well as the theories of their time.' (F. W. Maitland's Introduction to his Translation of Dr. Otto Gierke's *Political Theories of the Middle Age*, 1900, pp. vii-viii.)

PAGE 51, LINE 24

See *infra*, p. 53 for classifications of Dharma.

PAGE 53, LINES 11 AND 16

\* See Megasthenes, fragment 41 (*Indian Antiquary*, 1877, pp. 243-6). For Alexander's interview with Indian philosophers, see the passages of Strabo, translated in J. W. M'Crindle, *Ancient India as described in Classical Literature*, 1901, pp. 69-76.

PAGE 53, LINE 25

### Classifications of Dharma

Vijnaneswara's Commentary on Yajnavalkya, I. 1, gives the classification adopted in the lecture, but with different illustrations. Most of the Smritis imply the classification. For a different classification, see the following passage from *Markandeya Purana*, Chapter XXX, 1-2. Madalasa said: 'The duties of a householder are threefold, namely, *Nitya* (daily), *Naimittika* (occasional) and *Nityanaimittika*. Hear then, O my son (1). The ceremonies relating to the five sacrifices described to you by me before are called *Nitya*. The ceremonies that are performed on the birth of a son as well as others are called *Naimittika*.

*Sraddhas* on *Parva* days are regarded by the learned as *Nityanaimittika*.'

See also the acute observations on the subject in Dr. Shridhar V. Ketkar's *History of Caste in India*, 2 vols., 1909-1911.

PAGE 55, LINE 10

See the famous Borderer's Edict and the Provincials' Edict, for example. (V. A. Smith's *Asoka*, pp. 134-8).

PAGE 56, LINE 13

See Kautilya, pp. 306-11 and pp. 407-8; Manu, VII. 203.

PAGE 57, LINE 12

See Kautilya, p. 70, Sukra, p. 43, has a similar rule:—

परिवर्त्य नृपो ह्येतान् युञ्ज्यादन्योन्यकर्मणि ।

PAGE 58, LINE 3

See Megasthenes, fragment 27 (*Indian Antiquary*, 1877, pp. 131-2.)

PAGE 58, LINE 22

The quotation is from Kautilya, p. 169.

PAGE 60, LINE 25

On corporate organizations in India, see E. W. Hopkins — 'India, Old and New', 1902, pp. 168-205, in which he deals with ancient and modern Hindu guilds. See also Dr. Ananda K. Coomaraswamy's 'Indian Craftsman,' 1909, chapter II.

PAGE 60, LINE 34

See Kautilya, p. 196:—"महाजनस्यैकं व्रतो प्रत्येकं द्विगुणो दण्डः". For other references to 'village elders' see Kautilya, pp. 48, 168 and 178.

PAGE 61, LINES 1-3

See Kautilya, p. 245.

PAGE 62, LINE 9

### The Classical 'Written Law'

The first 'written laws' in Greece are stated to be those of Zaleucus of Locri, which were put into writing and *promulgated* in 664 B.C., forty years earlier than those of Draco at Athens.

It was regarded as a new phenomenon, in the march of Greek society. (See Grote's *History of Greece*, vol. iii, p. 194.) 'Draco was the first Thesmothet who was called upon to set down his Thesmoi in writing, and thus to invest them essentially with a character of more or less generality. . . . The duty (was) imposed on Draco, 624 B.C., to put in writing the Thesmoi or Ordinances, so that they might be *shown publicly* and known beforehand.' (*ibid.*, vol. ii, p. 447.)

'The laws of Solon (594 B.C.) were inscribed on *wooden rollers* and triangular tablets, in the species of writing called Boustrophedon (lines alternating first from left to right, and next from right to left, like the course of the ploughman), and preserved first in the Acropolis, subsequently in the Prytaneium. . . . Some remnants of these wooden rollers existed in the days of Plutarch (A.D. 45 to 120) in the Athenian Prytaneium.' (*ibid.*, vol. ii, p. 500.)

'These tablets of Solon), as Aristotle says, were called *cyrbes*, and there is a passage of Cratinus the comedian—

By Solon, and by Draco, if you please,

Whose *cyrbes* make the fires that parch our peas.'

(Plutarch's *Life of Solon*, Clough's translation, Everyman's Library edition, vol. i, p. 138.)

The Laws of Gortyn, nearly as old in date as the Twelve Tables of Rome, which were discovered in so remarkable a manner, in 1884, by Halbherr, in the bed of a mill stream in Crete, are inscribed on stone. They were found inscribed on the wall of a circular building, which was perhaps a theatre. 'These laws deal chiefly with such subjects as Inheritance, Adoption, Heiresses, Marriage and Divorce, and incidentally afford much information on the slave system, the tenure of land and property, the organization of the courts and other matters of interest.' (C.A.M. Pond, in Nettleship and Sandys's translation of O. Seyffert's *Dictionary of Classical Antiquities*, 1881, p. 259.)

In regard to the Roman Twelve Tables, Dr. Muirhead ('Historical introduction to the Private Law of Rome,' ed., 1899, pp. 94-95), points out that they were 'engraved or impressed on ten *tables of wood*, probably faced with stucco,

which were *displayed* in the Forum' (A.B.C. 449), and that the statement of Livy (iii, 57, 10), that 'these laws were exposed in public, inscribed on bronze,' applies to a later period. The tables were in existence as late as the third century, A.D., in a copy probably made after the sack of Rome, in 390 B.C., by the Gauls.

See also Whibley's *Companion to Greek Studies* 1906, pp. 378-379.

#### PAGE 64, LINE 23

#### Alleged Definition of Law in the Upanishads

The passage in the Upanishad runs thus:—

स नैव व्यभवत् तत् श्रेयोरूपमत्यसृजत धर्मं तदेतत् क्षत्रस्य  
क्षत्रं यद्धर्मः तस्मात् धर्मात्परं नास्ति अथो अबल्लोयान् बलीयाश्  
समाशंसते धर्मेण यथा राज्ञिवं यो वै स धर्मः सत्यं वै तत्तस्मात् सत्यं  
वदन्त माहुर्धर्मं वदतीति धर्मं वा वदन्तश्च सत्यं वदतीत्येतत् हैवैतदुभयं  
भवति ।

Mr. R. C. Dutt, following Sir William Jones, took it to contain a definition of Law, and stated (*History of Civilization in Ancient India*, vol. i, p. 173):—'No nobler definition of Law has been discovered by all the jurists in the world.' His version of the passage runs thus:—'Law is the *kshattrra* (power) of the Kshathra, therefore there is nothing higher than the law. Thenceforth even a weak man rules a stronger with the help of the law as with the help of a king. Thus the law is what is called the true. And if a man declares what is true, they say he declares the law; and if he declares the law, they say he declares what is true. Thus both are the same.'

Mr. Dutt's version errs mainly in rendering Dharma by the word law, and his interpretation has been accepted by others, e.g. Mr. K. A. Nilakantan, M.A.,—*Theory of Pre-Muslim Indian Polity*, p. 18.

## PAGE 65, LINES 9 AND 10

For Pindar's conception of law, as the order of the universe, see T. E. Holland, *Elements of Jurisprudence* (1880), p. 19.

## PAGE 66, LINES 27-30

**Connection between good government and prosperous seasons**

In the Jataka (vol. ii, 124) the belief is expressed that 'if a king be unrighteous, God sends rain out of season, and in season he sends no rain: and fear of famine, fear of pestilence, fear of the sword,—these three fears come upon men for him.' We are told also (*ibid.* II, 368) that under stress of famine, the populace gathered in the courtyard of the palace to reproach the king and to ask him to 'cause rain to fall.' He was told that when it did not rain, 'former monarchs used to give alms, to keep the holy day, to make vows of virtue, and to lie down seven days in the chamber, on a grass pallet: then the rain would fall.' In Jataka, No. 526, a story is told to show that a three years' drought was produced by an ascetic's virtue. Jataka No. 75 illustrates the belief that rain might be made by an act of truth.

For Kalidasa's belief, see *Raghuvamsa*, I. 26 :—

दुदोह गां स यज्ञाय सस्याय मघत्रा दिवं ।

संपद्विनिमयेतोमौ दधतुर्भुवनद्वयम् ॥

Mallinatha quotes the following verse from 'Dandaniti' to illustrate the above verse of Kalidasa :—

राजावथान् समाह्वय कुर्यादिन्द्रमहोत्सव ।

प्रीणितो मेघवाद्गस्तु महतीं वृष्टिमावहेत् ॥

For a similar idea see the *Bhagavad Gita*, Chapter III, verses 10 to 17.



See also Maricha's benediction in the last Act of Sakuntala:—

तव भवतु त्रिद्विजाः प्राज्यवृष्टिः प्रजासु  
 त्वमपि विततयज्ञः स्वर्गिणः प्रीणयालम् ।  
 युगशतपरिवर्तानेवमन्योन्यकृत्यै  
 नयतमुभयलोकानुग्रहश्लाघनीयैः ॥

For Kautilya's similar beliefs see the *Arthasastra*, pp. 206-8.

PAGE 68, LINES 11-14

See Kautilya, pp. 103-5, 142-3

PAGE 68, LINE 21

### Immunities from Taxation and Escheat

See Kautilya, p. 407, Manu, VII. 133-6, and VIII. 394, and the parallel passages from other Smritis quoted by Bühler in his translation of these passages of Manu.

PAGE 69, LINE 13

See for instance Kautilya, pp. 240-44, and the whole of his Second Book.

PAGE 70, LINE 17

### Kautilya and Machiavelli

On the revival of Machiavelli's reputation see Lord Morley's 'Machiavelli' reprinted in his 'Miscellanies', vol. iv, and A. L. Burd's article in the first volume of the 'Cambridge Modern History.'

The qualities of Machiavelli's *ideal* prince are curiously similar to those which Kautilya regarded as desirable in the Ruler. Thus both agree that the Ruler's first business is to save the state; that he should abstain from every vice

that might endanger his government: that he must be both lion and fox; that even if he is not really so, he should appear merciful, faithful and religious; that he should not unduly interfere with the property rights of his subjects, for 'a man will sooner forgive the slaying of his father than the confiscation of his patrimony'; that he should not let excess of trust make him careless or excess of suspicion make his rule unbearable; that where the safety of the country is at stake, no regard is to be paid to justice or to pity, or to glory, or the converse thereof. The prominent difference between Kautilya and Machiavelli is that though he also tries to treat Politics apart from Ethics and Religion, as far as feasible Kautilya is a confirmed believer in the permanence of the moral order of the universe.

#### PAGES 70-73

##### Etatisme

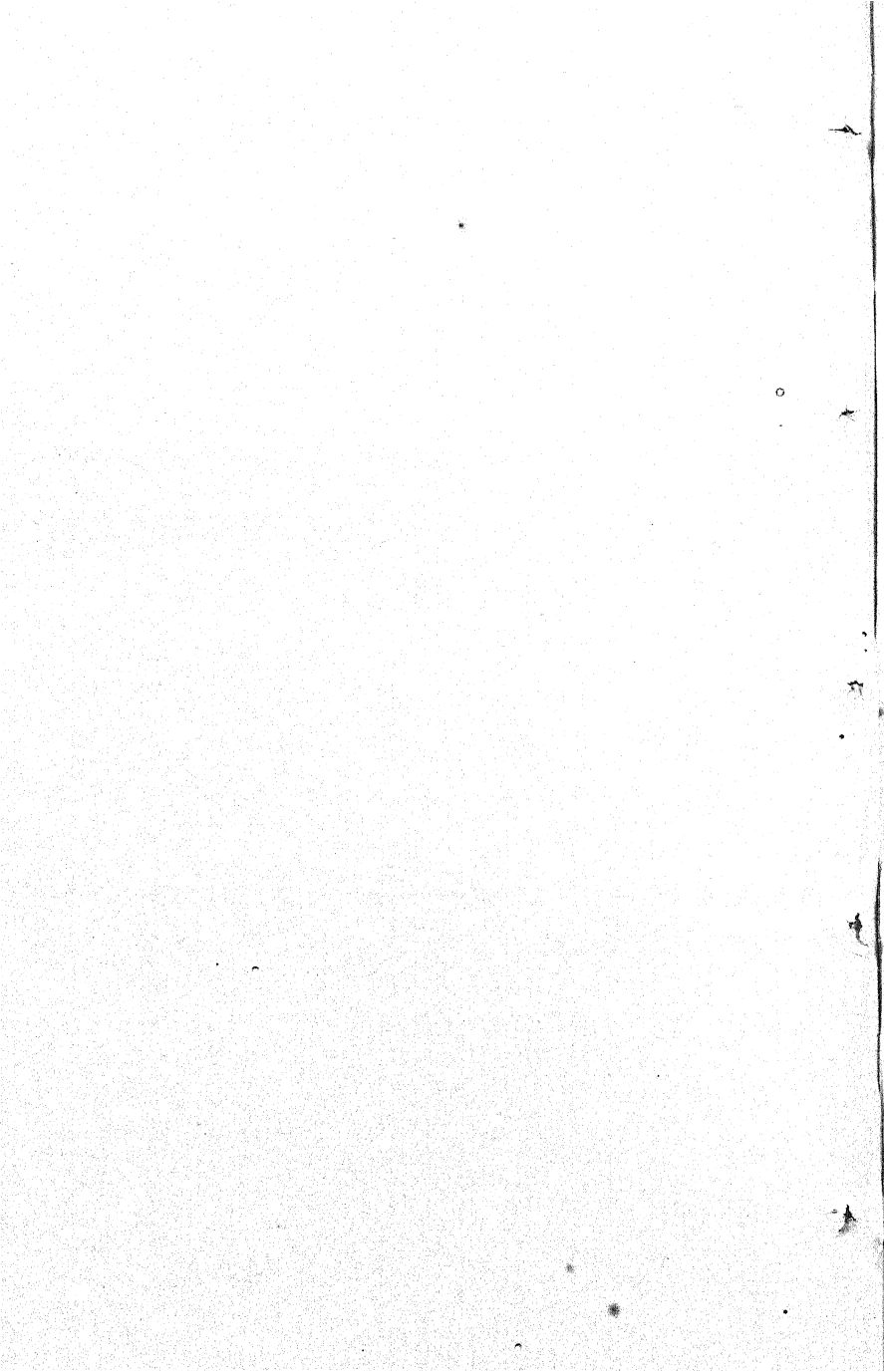
Compare the observations in the lecture with the views of Sir Roland K. Wilson-- 'The Province of the State' (1911) *passim* and especially, the forcible remarks in his Preface.

#### PAGE 72, LINES 15-16

##### Fa-hien and the Gupta Empire

See the summary of his observations in V. A. Smith, *Early History of India*, 1904, pp. 258-260.

'With a glance at Chinese institutions Fa-hien congratulates the Indians that "they have not to register their households, or attend to any magistrates and rules." They were not troubled with passport regulations, or, as the pilgrim bluntly puts it: "Those who want to go away, may go; those who want to stop, may stop."'



## ADDITIONAL NOTES

### THE AUTHENTICITY OF THE KAUTILIYA

SINCE the completion of the printing of the Lectures and the Notes contained in the Appendix, I have seen the incisive note of Dr. A. Berriedale Keith in the issue of the *Journal of the Royal Asiatic Society* for January, 1916 (pp. 130-137).

Dr. Keith holds that 'we cannot yet say, save as a mere hypothesis, that the *Arthasastra* represents the work of a writer of 300 B.C.' (p. 131), and that 'it may be assigned to the first century B.C., while its matter very probably is older by a good deal than that' (p. 137). 'It is older, of course, than the classical literature, such as Dandin and than the *Tantrakhyayika*, which uses it freely enough' (p. 137). But Hertel's conjectural ascription of the latter to 200 B.C. is 'doubtless at least a couple of centuries too early, so far as the available evidence goes' (p. 137).

The arguments which Dr. Keith brings forward in support of the above conclusions impugning the authenticity of the *Kautiliya* fall into two divisions:—(1) a criticism of the principal arguments of Jacobi (*Proceedings of the Royal Prussian Academy of Science*, 1912, pp. 834-849) in proof of the authenticity of the work; and (2) a brief statement of certain points in the work, indicating 'that the statesman was not the actual author of the book we have'.

The most important of Dr. Keith's criticisms may be considered here briefly.

Jacobi considered that 'the frequent mention of opposing views and the reference to their authors as *acharyah* is inconsistent with the later authorship.' Dr. Keith contends that 'no weight can be given to this view: if Kautilya was

polemical, then his school naturally followed his footsteps, and it is quite impossible to assert that *acharyah* could not be used by his followers of other scholars than their master : this term denotes respect, not obedience, and respect for other scholars, despite disagreement, is not impossible nor unusual in India.'

It is submitted that (1) the term *acharyah* is only a reference, in the *customary* honorific plural, to the *one* teacher to whom the writer held himself to be spiritually most indebted, (2) that it could not refer to the *body* of previous writers, since there are two instances at least, in the *Arthasastra*, in which the views of the *acharyah* are not only distinguished from those of Kautilya, but also from those of Vatavyadhi in one instance (*Arthasastra*, p. 261), and those of Bharadwaja in another (*ibid.*, p. 320), (3) that the relatively large number of cases in which Kautilya's views are distinguished from those of *acharyah* should be held to suggest a personal relation, the views of Kautilya being liable to be construed to be identical with the *acharyah's* unless so distinguished, and (4) that while respect for other scholars, despite disagreement is not unusual in Indian polemical literature, it is thoroughly opposed to Indian practice for the terms *guru* and *acharya* to be used in reference to others than a man's own personal teachers and preceptors.

Jacobi had laid stress on the last verses of the *Arthasastra*, i, 1, and ii, 10, and the three verses at the end of the work which ascribe it to Kautilya and the significant harmony of these with the famous notice of the *Kautiliya* by Dandin. Dr. Keith objects that Dandin's reference is to a work in 6,000 *slokas* while the *Arthasastra* is mostly in prose.

He denies that the word *sloka* could have been used by Dandin of *prose*, as in the copyist's sense. It may be argued in answer to this criticism that the term is put into the mouth of a character in Dandin's work to describe the *dimension* of Kautilya's work and not its literary form, and that the work even as we now have it, appears to conform to the description of it as consisting of 6,000 *slokas* of thirty-two syllables each, in the copyist's sense.

Jacobi had contended that the last *sloka* of the *Arthasastra* which claimed that it had been composed by the writer 'who impatient of their misuse had saved the *sastras* and the science of war as well as the earth which had been under King Nanda,' is inconceivable in any one except Chandra-gupta's minister. To this Dr. Keith rejoins that 'these lines are very unlike a statesman, and very like the production of a follower who desired to extol the fame of his work and of his master.' It has only to be submitted that Indian tradition has uniformly credited Kautilya with uncommon *panditya* as well as a spirit of boastfulness. If the tradition correctly describes Kautilya's nature—which in this respect apparently did not differ from that of the average polemical writer of later times, e.g. Jagannatha Pandita—there is no ground for regarding the lines in question as not authentic.

Passing to the consideration of the points which according to Dr. Keith would indicate that Kautilya was not the author of the book, we have, to begin with, one on which Dr. Keith lays great emphasis, viz. the apparent criticism of a view of Kautilya by Bharadwaja and its immediate refutation by Kautilya, which occurs in the course of the discussion of ministerial usurpations, on p. 253 of the *Arthasastra*.

The passage however, if read dispassionately, and with a remembrance of the various devices adopted by Kautilya to ensure brevity as well as emphasis, will be seen only to be an instance in which the opposed opinions between two schools of thought are reproduced in the form of an argument or discussion. The citation of Kautilya's opinions, in a work which claims his authorship, will also be explicable if it be borne in mind that he apparently regarded himself as making numerous *innovations* in accepted doctrines, especially in those of the school, in which he had been trained, and that the citations occur *only* when a distinction has to be made between Kautilya's views and those of others.

Dr. Keith next brings up a somewhat curious argument. He suggests that the name *Kautilya* is suspicious for 'it means falsehood', and that 'that it seems a curious name for him to bear in his own work.' In answer to this, may it

not be asked whether an insulting expression is more natural from the followers of a school in regard to its founder than from a writer in regard to himself? If proper names are to be interpreted in accordance with their component verbal elements, leaving modern instances out of consideration, are we to regard such names as *Kutsa* (one of the Seven Sages), *Sunasshepha*, *Divodasa*, *Charnasirah* (one of Yaska's predecessors), etc., as representing such nicknames as the 'Despised one', 'Dog's Tail', 'Time-Server', and 'Leather Head'? In this connexion reference might be made to vol. i, p. 207 of Radhakanta's *Sabdakalpadruma*, where the word Kautilya is derived so as to mean a member of the Vatsa Gotra. An eminent Pandit derives *Kautilya* from *Kutila* (a river), and applying Panini's aphorisms IV. ii. 16, and IV. iii. 54, makes out that *Kautilya* is a name applied to Chanakya to denote the locality of his birth.

Dr. Keith suggests another objection, viz. the use of the name *China* in the *Arthasastra*, which would be remarkable if the name China is derived from the Tsin Dynasty which began to reign in 247 B.C. He is, however, willing to concede that the word may have been interpolated. It has only to be pointed out that the derivation of the name China from the dynasty of Tsin has been held to rest on very doubtful authority. (See *Encyclopædia Britannica*, eleventh edition, vol. vi, p. 188.)

A fifth argument of Dr. Keith is that the *Arthasastra* agrees very closely in form with the *Kamasastra* of Vatsyayana, which Jacobi would assign to the third century A.D. Dr. Peterson, on the other hand, argued, so long ago as 1891, that the *Kamasutra* must be dated about the beginning of the Christian era, if not from about 57 B.C. The Indian tradition which makes *Vatsyayana* a synonym for Kautilya may be remembered in this connexion. See my remarks on p. 90 *infra*.

Dr. Keith's last argument is based on the use of correct Trishtubh stanzas in regular metre in the *Arthasastra*, as well as on his impression that the language of the work is not markedly archaic. How is this to be reconciled with the

observation of grammarians who have noted the un-Paninian data in the *Arthasastra* (see pp. 120–123 *infra*)? It is assuredly somewhat hazardous to attach, in the present state of our knowledge, so much importance to *impressions* of metre and style, when the evidence from so many other divergent points tends in the same direction of confirming, as indicated in these Lectures, the tradition regarding the authentic nature of the *Arthasastra*?

### ASTRONOMICAL DATA OF THE KAUTILIYA

Since his letter of May 31, 1915, on the subject was printed on pp. 124–126 *infra*, Mr. Swamikannu Pillai has subjected the *Jyotisha Vedanga* to a searching examination in connexion with his lectures on 'The Astronomical Basis of Ancient Indian Chronology' for the Sir Subrahmanya Aiyar Lectureship of the current academic year. In the light of his subsequent researches, Mr. Swamikannu Pillai has revised his Note. The revised version of paras. 4, 5, 6, 7 and 8 of his Note (*infra*, pp. 124–126) is printed below :—

'The statements made in *Arthasastra* about the solar and lunar months, solar and lunar years, and the intercalary months agree generally with the calendar of the *Jyotisha Vedanga* with which I have dealt *in extenso* in my University Lectures, delivered at Madras on March 18 and 25, 1916. One thing is clear, the solar year of the *Arthasastra* is a year of 366 days and a cycle of five such years (1,830 days) was supposed to contain sixty-two lunar months. This is the fundamental rule of the *Jyotisha Vedanga*.

'In the *Arthasastra*, the solar months consist of thirty and a half days; for it is stated "thirty days and nights with an additional half a day makes one solar month." Again "the sun carries off one-sixtieth of a whole day every day and thus makes one complete day in every two months."

'The lunar month of the *Arthasastra* consists of twenty-nine and a half days, which is expressed by saying that for every thirty days the moon loses one-half day or one-sixtieth



day for every day. The lunar year consisting of  $29\frac{1}{2} \times 12 = 354$  days is less than 360 days by six days, whereas, the solar year is more than 360 by six days. The difference between the solar and lunar years of twelve days for every solar year becomes thirty days in two and a half years and sixty days in a *yuga* of five years. These periods of thirty days and sixty days are called *adhimasas*.

'My general impression is that the *Arthasastra* was written somewhere *above* the thirtieth parallel of latitude and that it follows the *Vedanga Jyotisha* throughout as to the calendar.

'In my University Lectures, I have endeavoured to account for the fact that a calendar apparently so faulty as to the length of the solar year, as the *Vedanga Jyotisha* was, nevertheless, obtained currency from the time when the first observations were made under that calendar (about 1181 B.C., *J.R.A.S.*, 1915, p. 214). I have there shown that the rule as to the addition of two *adhika* months in the course of a *yuga* of five years must have been departed from once in thirty years, when a single *adhika* month was probably inserted instead of two, and that with this practical modification, the measures of time laid down in the *Vedanga Jyotisha*, as well as in the *Arthasastra* were capable of yielding in the course of 160 years, a true sidereal year, a true synodical month and a true sidereal month.

'In his article on the *Vedanga Jyotisha*, in the *Journal of the Bengal Asiatic Society* for 1877 Dr. Thibaut pointed out that the daily retardation or acceleration of sunrise, between the longest and the shortest day, was obtained generally, during the currency of the *Vedanga Jyotisha*, by dividing one and a half *muhurtas* or three *ghatikas* by 183 days, which gives an increment or decrement of 23.6 seconds *per diem* for sunrise; roughly one *pala per diem*. In *J.R.A.S.*, 1915, page 217, Dr. Fleet gives this figure as forty-seven seconds, which would apply to the total *ahas*, not to sunrise only. Dr. Fleet (*loc. cit.*) cites Dikshit as identifying the locality where the rule was framed with  $34^{\circ}$ ,  $46'$ ,  $55''$ , N. Latitude.'

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